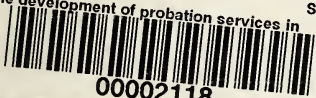


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THE DEVELOPMENT OF PROBATION SERVICES IN ONTARIO

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1 Probation Beginnings

Beginnings in America and Great Britain

Probation had its beginning in the United States of America at state level following a demonstration of the humanitarian and economic values as well as positive results of this approach by John Augustus, the Boston cobbler and philanthropist. He began his important work with offenders in that city in the year 1841, and is credited with being the first person to apply the term "probation" to this measure whereby persons were released by the court, to appear and receive judgment after a period under his care and supervision.

The first legislation appeared in *Massachusetts in 1878*. This introduced into the Boston courts the first official and paid probation officer. Appointed by the mayor and responsible to the chief of police, he was expected to attend sessions of courts of criminal jurisdiction held within the County of Suffolk, to investigate the cases of persons charged or convicted of crime and misdemeanors and to recommend to the court the placing on probation of such persons as might reasonably be expected to be reformed without punishment.¹

The Revised Massachusetts Law of 1891 provided that probation officers should not be active members of the regular police force, but in the execution of their official duties, have all the powers of police officers.

In 1847 England introduced the provision for offenders under 14 to be tried summarily for stealing. Later the *Summary Jurisdiction Act of 1879* extended

The writer gratefully acknowledges the valuable suggestions made by Mr. R. F. Brown and Mr. A. K. Gigeroff, upon reading the first drafts, June 1964 and February 1965; also the painstaking assistance of Mr. A. R. Stannah in collating current statistical data, and of Miss V. Stephenson and Mrs. N. Taba, in typing this manuscript. The writer is also indebted to the following for their immediate suggestions and inspiration from their earlier unpublished manuscripts: F. S. Dingman — *The Story of the Wellington County Family Court*, August, 1948; and D. Taylor — *Study of Adult Probation in Ontario*, August, 1952; both submitted towards their respective M.S.W. degrees at the University of Toronto School of Social Work.

¹ Charles L. Chute, "Crime, Courts and Probation", The Macmillan Company, New York 1956, p. 60

the possibility of a summary trial to offenders under 16 for nearly all indictable offences.

In 1879 that country legislated that a court, upon convicting a person could discharge him conditionally. In 1887, prior to the enactment of the Criminal Code of Canada, England passed the *First Offenders Act*, wherein the principle of probation was recognized. Unlike the pattern of development in the United States, in Britain the pioneering period by the voluntary services such as police court missionaries extended over a much longer time before official, state-employed officers were appointed. With the passing of the *Probation of Offenders Act, 1907*, we find the establishment of the first probation system in that country.

Beginnings in Canada

Constitutional Powers of the Parliament of Canada and Provincial Legislatures: The British North America Act (1867)

By virtue of the *British North America Act, 1867, Section No. 91, article 27*, the Parliament of Canada has sole power to enact legislation with regard to criminal laws. By *Section 92, article 14, of the British North America Act* the provinces of Canada have power to enact civil law. The provinces also have exclusive power in relation to administration of justice. Legislated criminal law is therefore contained in the Criminal Code of Canada, and provision for the use of probation in connection with a criminal offence is provided for in *Section 638-640 of the Criminal Code 1954*. However, as a function within the administration of justice, the administration of probation services in Ontario has thus remained a matter within the jurisdiction of the provincial legislature. It appears that the principle underlying this is that since probation is neither "punishment" nor "a sentence", but rather a "suspension of the passing of a sentence"; therefore the provinces remain administratively responsible. Accordingly the courts continue to be seized of such cases until either the terms and period of probation are satisfactorily completed or sentence is passed as in the case of a violation.

Early Legislation of the Dominion Parliament Concerning Juvenile Offenders

One of the first traces of law for the trial of juveniles in Canada was introduced prior to Confederation, in the Statutes of the Province of Canada for the year 1857.

An Act for the More Speedy Trial and Punishment of Juvenile Offenders.

20 Victoria, Chapter 29

(Assented to 10th June, 1857)

WHEREAS in order in certain cases to ensure the more speedy trial of juvenile offenders, and to avoid the evils of their long imprisonment previously to trial, it is expedient to allow of such offenders being proceeded against in a more summary manner than is now by law provided, and to give further power to bail them: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

PROVISION FOR DISMISSAL WITH OR WITHOUT SURETIES OF OFFENDERS UNDER 16:

I. Every person who shall, subsequently to the passing of this Act, be charged with having committed or having attempted to commit, or with having been an aider, abettor, counsellor or procurer in the commission of, any offence which now is or hereafter shall or may be by law deemed or declared to be simple larceny, or punishable as simple larceny, and whose age at the period of the commission or attempted commission of such offence shall not, in the opinion of the Justices before whom he or she shall be brought or appear as hereinafter mentioned, exceed the age of sixteen years, shall, upon conviction thereof, upon his own confession or upon proof before two or more Justices of the Peace for any District in Lower Canada, or City, County, or Union of Counties in Upper Canada, in open Court, be committed to the Common Gaol or House of Correction within the jurisdiction of such Justices, there to be imprisoned with or without hard labor, for any term not exceeding three calendar months, or, in the discretion of such Justices shall forfeit and pay such sum, not exceeding five pounds, as the said Justices shall adjudge: Provided always, that if such Justices, upon the hearing of any such case, shall deem the offence not to be proved, or that it is not expedient to inflict any punishment, they shall dismiss the party charged on finding surety or sureties for his future good behaviour, or without such sureties, and then make out and deliver to the party charged, a certificate under the hands of such Justices stating the fact of such dismissal, and such certificate shall and may be in the form or to the effect set forth in the Schedule hereunto annexed in that behalf: Provided also, that if such Justices shall be of opinion, before the person charged shall have made his or her defence, that the charge is from any circumstance a fit subject for prosecution by indictment, or if the person charged shall, upon being called upon to

Preamble.

Persons of not more than sixteen years of age committing certain offences, may be summarily convicted by two Justices.

Punishment by imprisonment or fine.

Proviso: Justices may dismiss the accused if they deem it expedient not to inflict any punishment.

Proviso: case may be sent for trial in the usual manner if the Justices think fit.

answer the charge, object to the case being summarily disposed of under the provisions of this Act, such Justices shall, instead of summarily adjudicating thereupon, deal with the case in all respects as if this Act had not been passed.

SAFEGUARD TO OFFENDERS DEALT WITH UNDER ACT

V. Every person who shall have obtained such certificate of dismissal as aforesaid, and every person who shall have been convicted under the authority of this Act, shall be released from all further or other proceedings for the same cause.

Proceedings under this Act a bar to further proceedings.

COMPELLING APPEARANCE

VI. Where any person whose age is alleged not to exceed sixteen years shall be charged with any such offence, on the oath of a credible witness before any Justice of the Peace, such Justice may issue his summons or warrant to summon or to apprehend the person so charged to appear before any two Justices of the Peace, at a time and place to be named in such summons or warrant.

Mode of compelling appearance of person punishable on summary conviction.

REMAND "FOR FURTHER EXAMINATION" OR "FOR TRIAL" ON RECOGNIZANCE

VII. Any Justice or Justices of the Peace, if he or they shall think fit, may remand for further examination or for trial, or suffer to go at large upon his or her finding sufficient surety or sureties, any such person as aforesaid charged before him or them with any such offence as aforesaid; and every such surety shall be bound by recognizance, to be conditioned for the appearance of

Power to one Justice to remand or take bail.

AUTHORITY TO SUMMONS WITNESSES

IX. It shall be lawful for any Justice of the Peace by Summons to require the attendance of any person as a witness upon the hearing of any case before two Justices under the authority of this Act, at a time and place to be named in such summons; and such Justice may require and bind by recognizance all persons whom he may consider necessary to be examined touching the matter of such charge to attend at the time and place to be appointed by him, and then and there to give evidence upon the hearing of such charge; and in case any person so summoned or required or bound as aforesaid shall neglect or refuse to attend in pursuance of such summons or recognizance, then upon proof being first given of such person's having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, it shall be lawful for either of the Justices before whom any such person ought to have attended to issue a warrant to compel his appearance as a witness.

As to the summoning and attendance of witnesses.

Warrant in case of refusal.

AUTHORITY TO ORDER RESTITUTION

XIV. No conviction under the authority of this Act shall be attended with any forfeiture, but whenever any person shall be deemed guilty under the provisions of this Act it shall be lawful for the presiding Justices to order restitution of the property in respect of which such offence shall have been committed, to the owner thereof or his representatives; and if such property shall not then be forthcoming, the same Justices, whether they award punishment or dismiss the complaint, may inquire into and ascertain the value thereof in money, and if they think proper, order payment of such sum of money to the true owner by the person or persons convicted, either at one time or by instalments, at such periods as the Court may deem reasonable; and the party or parties so ordered to pay shall be liable to be sued for the same as a debt in any Court in which debts of the like amount may be by law recovered, with costs of suit, according to the practice of such Court.

No forfeiture on conviction under this Act, but Justices may order restitution of property.

Re-payment by instalments in certain cases.

Apart from the provision for dismissal with or without sureties, certain remarkable parallels are to be noted between the provisions of Sections I, V, VI, VII, IX and XIV of this Act and provisions now existing and possible for both juvenile and adult offenders through probation services.

In 1859, 22 Victoria, Chapter 106, An Act Respecting the Trial and Punishment of Juvenile Offenders revised and amended the above. It retained in Section 2 the following provision for dismissal of the party charged where it deemed the offence not proved or that it was not expedient to inflict any punishment:

"If such Justices, upon the hearing of any such case, deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the party charged on finding surety for his future good behaviour, or without sureties, and then make out and deliver to the party charged a certificate under the hands of such Justices stating the facts of such dismissal."

In addition to the above-noted amendments, the year 1859 saw further progress with the passing of the *Act Respecting Prisons for Young Offenders*. This provided for two buildings, one in Lower Canada and one in Upper Canada, for the confinement and restriction of young offenders.

Further revisions were introduced in 1886, Chapter 177, *Revised Statutes of Canada, An Act Respecting the Trial and Punishment of Juvenile Offenders*. This remained as a most significant forerunner to the 1894, 57-58 Victoria (Canada) *Act Respecting the Arrest, Trial and Imprisonment of Youthful Offenders* and subsequently the *Juvenile Delinquents Act of Canada* (1908).

The Summary Convictions Act, Revised Statutes of Canada, Chapter 178, Section 55, 1886, included the following progressive measure. This allowed the Court discretion in certain cases to discharge the conviction upon the

offender making such satisfaction to the person aggrieved for damages and costs . . . as are ascertained by the Justice. This was applicable where a person was summarily convicted before a justice for any offence against *The Larceny Act, or The Act Respecting Malicious Injuries to Property, or The Act Respecting the Protection of the Property of Seamen in the Navy.*

Early Legislation and Development of Juvenile Probation in Ontario

Any study of the juvenile court system in Ontario and Canada must include reference to the particular contribution of Mr. J. J. Kelso. He campaigned in 1888 as a reporter for the *Toronto Globe* through his columns and on the public platform for better treatment for the delinquent and neglected child. His leadership was instrumental in bringing about the first Ontario children's protection legislation of 1888 and 1894. He also prepared, circulated and submitted to the Minister of Justice in 1894 a petition requesting the introduction of legislation to make it obligatory upon courts and municipalities to provide separate trials and confinement of youthful offenders, and the establishment of a probation system in the large cities for dealing with them.

The first provision in Ontario for the carrying out of functions comparable to those of Juvenile Court Judges appears in an Ontario Statute passed by the Legislature in March, 1888: *An Act for the Protection and Reformation of Neglected Children.*

Section 7 provided for the appointment of a Commissioner or Commissioners, with powers of a police magistrate, to hear and determine complaints against juvenile offenders.

"The Lieutenant Governor may, upon the request of any municipal council, appoint a commissioner or commissioners each with the powers of a police magistrate, to hear and determine complaints against juvenile offenders, apparently under the age of sixteen years."

Later, the Statutes of Ontario, 1893, Chapter 45, *The Children's Protection Act*, provided for the establishment of Children's Aid Societies. It also included a provision for taking neglected and delinquent children from negative home situations where rehabilitation was deemed to be impracticable and for their commitment by the Court to the Children's Aid and their placement by that Society in foster homes for neglected and delinquent children.

The Act also emphasized the need for complete separation of children and adults before the Courts.

Despite this legislation, children continued to appear in the Toronto police court docks. To bring matters to a head, J. J. Kelso, then the Provincial Superintendent of Neglected and Dependent Children in 1894, through his solicitor,

objected to the appearance of a girl of fifteen being tried in open court. This led to the appointment of a Commissioner and separate hearings for juveniles in Toronto. Children's sessions have therefore existed in Toronto since 1894. The principle of punishment was still followed, but the Toronto experiment led to the setting up of such children's sessions in other large centres.

The Summary Convictions Act, R. S. Canada, Chapter 178, 1886, Section 55, introduced an enlightened measure whereby a person who had been summarily convicted, and where this was a first conviction, might be dealt with in hearings for juveniles in Toronto. Children's sessions have therefore existed in Toronto since 1894. Although the principle of punishment was still followed, this Toronto experiment led to the setting up of such children's sessions in other large centres.

The *Ontario Children's Protection Act of 1893* was nevertheless very limited in its application to juvenile offenders. Since under our constitution criminal law comes within the exclusive jurisdiction of the Dominion Parliament, the Ontario Act applied only to relatively unimportant offences against Provincial Statutes.

This defect was later remedied following pressure from Ontario workers under the leadership of Mr. J. J. Kelso to have an Act passed by the *Dominion Parliament in 1894*. This Act, (57-58 Victoria) *Respecting the Arrest, Trial and Imprisonment of Youthful Offenders* and amending *Section 550 of the Criminal Code*, provided for private trials for offenders under 16; also for their incarceration prior to sentence, separately from other prisoners either charged with criminal offences or undergoing sentence.

The Act also introduced a special provision (which was applicable only in Ontario) whereby in the case of any boy under 12 or girl under 13, charged with an offence, the Court should give notice to the Children's Aid Society, if there was one in the area. Before dealing with the case, the Society was to be allowed an opportunity to investigate. The Court could then consider any report presented and instead of sentencing the child, direct that it be placed in a foster home or committed to an industrial school.

This was advanced legislation for 1894. However, it remained without extension or improvement for fourteen years. Until 1906, probation, which had in the meantime come elsewhere to be looked upon as the most essential feature of the Juvenile Court, was in Canada practically unknown unless to the limited extent that probation (though not so named) was involved in the work of the Children's Aid Societies under the provincial and dominion legislation just referred to. In 1906, the Children's Aid Society of Ottawa appointed two lady probation officers, one English-speaking and the other French-speaking, and inaugurated the work of probation insofar as it could be carried out without legislative authority. Experience, however, soon proved this to be very unsatis-

factory, and it was decided to endeavour to secure appropriate Dominion legislation.

The Juvenile Delinquents Act of Canada (1908)

Before attempting a draft of the proposed measure, copies were obtained of most of the Juvenile Court Acts at the time in force in the several States and of the Children's Act then before the British House of Commons. Free use was made of these, and particularly the Illinois and Colorado statutes. Conditions were so different in Canada, however, that slavish imitation, had it been thought desirable, would not have been practicable. Owing chiefly to the opposition of the Minister of Justice, the bill though introduced in the session of 1907, was not adopted until a year later. The Act, known as *The Juvenile Delinquents Act*, received the Royal Assent on the 20th of July, 1908.²

Although unrecognized at the time, undoubtedly, earlier testing and application of procedures by the Children's Aid Societies served as a major impetus in the movement toward both juvenile and adult probation as Children's Aid Societies, generally, became more court conscious and experienced in the placement and supervision of juveniles in their care.

Sections of this paper dealing with the duties and constitutional powers as well as problems of jurisdiction and responsibility of various levels of government have been amplified because these factors, along with related financial considerations, seem to account more than others for much of the slowness in movement toward implementation of legislation and subsequently the provision of staff and facilities deemed essential for both the juvenile courts and Probation Services.

Constitutional Considerations in Drafting the Juvenile Delinquents Act of 1908

The late W. L. Scott, K.C., drafter of the original Juvenile Delinquents Act, had a close connection with the work of the Children's Aid Societies. He was President of the Ottawa Children's Aid Society, and for seven years had served as President of the Ontario Association of Children's Aid Societies.

His reference, *The Juvenile Court in Law and the Juvenile Court in Action*, recalled one interesting problem which he encountered in drafting this Act, so that it would come within the legislative jurisdiction of the Dominion Parliament. Since our constitution placed regulation of the civil status of persons exclusively under Provincial legislation, and since the British North America, Sec-

² W. L. Scott, K.C., "*The Juvenile Court in Law*", and "*The Juvenile Court in Action*" — The Canadian Council of Child Welfare, Plaza Bld., Ottawa, 1930.

tion 91, Article 27, gives the Parliament of Canada sole power to enact criminal laws and procedures, the decision was not to define delinquency as a "state" or "condition" as had been done in the United States. To have dealt with delinquency as condition, thereby focusing upon the civil status of the delinquent person, would have rendered the Act one upon which the Dominion Parliament lacked the constitutional power to legislate. In order to give jurisdiction to the Dominion Parliament, it was therefore necessary to define delinquency as an "offence". (Sec. 3, Juvenile Delinquents Act, Chap. 40, Statutes of Canada, 1908.) Possibly one of the principle values to be attached to this legislation being within the jurisdiction of the Dominion Parliament, and comparable with the values attached to the criminal law, was that this might encourage throughout Canada uniform legal sanctions (and ultimately corrective services) for conduct which was uniformly prohibited in the case of juveniles. In this respect we see that the Canadian system started and continues to be more aligned with British rather than American tradition.

Another difficulty encountered by reason of the division of powers provided by the British North America Act was that the administration of justice including the constituting of the courts, whether criminal or civil, was a matter which was constitutionally within the sole jurisdiction of the provincial legislatures. The establishment of Juvenile Courts could not, therefore, be specifically provided for in the Act.

Jurisdictional Considerations in the Act and Senate Debates (1908)

The Act: Provisions for Putting Into Force

Sections 34 and 35 of the Juvenile Delinquents Act 1908 (dealing with the matter of its implementation at provincial and local levels of government) read as follows:

- "34. This Act may be put in force in any province, or in any portion of a province, by proclamation, after the passing of an Act by the legislature of such province providing for the establishment of Juvenile Courts, or designating any existing courts as Juvenile Courts, and of detention homes for children."
- "35. This Act may be put in force in any city, town, or other portion of a province, by proclamation, notwithstanding that the provincial legislature has not passed an Act such as referred to in section 34 of this Act, if the Governor in Council is satisfied that proper facilities for the due carrying out of the provisions of this Act have been provided in such city, town or other portion of a province, by the municipal council thereof or otherwise.
 2. The Governor in Council may designate a superior court or county court judge or a justice, having jurisdiction in the city, town, or other portion of

a province, in which the Act is so put in force, to act as Juvenile Court Judge for such city, town, or other portion of a province and the judge or justice so designated or appointed shall have and exercise in such city, town, or other portion of a province, all the powers by this Act, conferred on the Juvenile Court."

Senate Debates (1908)

There was, however, a considerable amount of debate concerning the jurisdictional matters to be considered. Some excerpts are included from the *Debates of the Senate Dominion of Canada, Vol. II, Session 1907-8, Juvenile Delinquents Act, Third Reading, June 16, 1908.*

Hon. Mr. Landry: "I do not see why because a place is a town or city it does not fall within the jurisdiction of the province in this respect. Even though it is a city, it is in the province all the same, and is subject to provincial jurisdiction. I do not see the reason of a distinction. In one place it is a general enactment, and then in another it is a special enactment applying to cities and towns. I do not see why provincial rights should be trampled upon because the provincial legislature has not passed the Act referred to. Clause 35 reads as follows: (The Honourable Member quoted Clause 35 as above). That is giving to the municipal authority the power to provide what the legislature has not given them power to do. If the legislature has not enacted anything of the kind, how can the municipality have authority which is not bestowed upon them by the provincial legislature?"

Hon. Mr. Beique: "I call attention to the fact that under this Bill no new courts are created. The Provinces are invited to create courts, and if they do not create courts, then the courts already existing may be designated by the Governor in Council as juvenile courts."

Hon. Mr. Power: Motion: "I move that clause 35 of the Bill be amended by adding thereto the following section:

3. In addition to those expressly mentioned in this Act, the Juvenile Court judge has all the powers and duties, with respect to offenders under or apparently under the age of sixteen years, vested in, or imposed on a judge, stipendiary magistrate, justice, or justices, by or under the Prisons and Reformatories Act, chapter 148 of the revised statutes, or any amendment thereto."

Hon. Mr. Ross: "Clause 34 provides: 'This Act may be put in force in any province, or in any portion of a province, by proclamation.' By clause 34, the Act comes in force in any city, town or other portion of a province by proclamation, notwithstanding that the provincial legislature has not passed an Act such as is referred to in clause 34. Reading that, it would seem that the proclamation of the Governor in Council supersedes the action of the province. But let us read further:

'If the Governor in Council is satisfied that proper facilities for the due carrying out of the provisions of this Act have been provided in such city, town, or other portion of a province by the municipal council thereof or otherwise.'

Now, the words Provision being made for the operation of the court by the municipal council, is, to my mind, what saves the clause. The municipality derives its power from the provincial government. If the municipal council, which is a creature of the provincial government, makes provision whereby it may be enforced, the proclamation of the Governor in Council takes effect. Otherwise the proclamation would not take effect, because it is distinctly provided that he must be satisfied that due provisions for the carrying out of the Act have been made by the municipal council. . . .

"It does not become operative in a Province except by proclamation of the Lieutenant Governor, and in that I think the plain meaning is that we are taking care not to supersede Provincial power by saying, 'although we pass this Act it does not come into operation until proclaimed by the Lieutenant Governor.' Otherwise, the clause would have no meaning. We do not require any proclamation of the Governor in Council to bring it into operation unless it is specifically reserved."

Hon. Mr. Lougheed: As this is very largely an academic question, I am at liberty to differ from my Hon. friends from Marshfield and Stadacona. We are rather confusing the issue on account of the language in clause 34, which makes provision for the designation by the Province of a court for the trial of those particular cases. That is not necessary at all. The Federal government, if it finds a court in existence, can designate, practically imperatively, certain duties and it is not necessary for the Province to designate any particular court which shall receive jurisdiction from the Federal government with reference to exercising jurisdiction in any matters within the competency of the Federal government. Consequently, it seems to me that the language in clause 34 of the Bill is almost unnecessary as to a Province designating a particular court to have jurisdiction in these particular cases. The Hon. member from Halifax has referred to the Dominion Election Act. That is a case in point. It has been well established as a constitutional principle that the Federal government can designate jurisdiction in any Provincial court with reference to any subject coming within the competency of the Federal government."

Hon. Mr. Landry: "But where a Provincial court does not exist."

Hon. Mr. Lougheed: "If that court does not exist, the Dominion government cannot call a court into existence. It is a mistake in assuming that clause 35 creates a court. It does not create a court; it simply provides a method of procedure by which it places upon a court in any province the duty of exercising jurisdiction with reference to the subject of this Act. I must confess that I do not appreciate the point of the Hon. senator from De Salaberry in striking out line 19 'or may appoint some other duly qualified person to act as juvenile court judge'. The Federal government cannot appoint ad hoc judges to act in this particular case,

and it seems unnecessary to strike that out. So far as using the expression municipal council is concerned, which rather staggered my Hon. friend from Middlesex, I might point this out: there are certain urban municipalities within the Dominion of Canada charged with the support and maintenance of city jails. For instance, the city of Toronto supports its own jails. Toronto being a municipality could make provision in that jail for the reception of juvenile delinquents, and I think the employment of this language has reference to a case of that particular kind. I suppose that obtains in other municipalities as well as in Toronto."

Hon. Mr. Ross: "It could provide shelters or industrial schools, and if those are not provided, the Governor in Council could not bring the Act into operation."

Hon. Mr. Loughheed: "So far as the employment of the language 'Governor in Council' is concerned, that is merely a provision as to bringing the Act into force, that this Act will not be brought into operation indiscriminately throughout the Dominion where it may not be regarded as desirable or necessary. It is simply a precaution placed on the Governor in Council to make inquiry, and having found it desirable to bring Act into force, a proclamation is issued bringing the Act into force within that particular district."

The House divided on the amendment to the amendment, (by the Hon. Mr. Power above) which was rejected.

Hansard: Some Positive and Negative Concepts Concerning Juvenile Courts and Probation Officers

Senate Debates (1908) The Function of The Probation Officer:

The Hon. Mr. Ross of Middlesex went to considerable lengths to amplify the role of the Probation Officer when the Bill came before the Senate of Canada on June 16, 1908. This Statement concerns the Probation Officer's role with juveniles and their parents is essentially positive and emphasizes the values in home and community-centered treatment for the juvenile and continued involvement of parents.

"This Bill provides for more than we are able to do in the Provincial courts. In the interval between capture and sentence, he is put in charge of a Probation Officer. He is not sent direct to the police court. He is not held under police control until the time of his sentence, but under the control of some other officer, who will see that he does not mix with other prisoners. That, I think is most important, but I consider the most important feature of this Bill is that boys and girls are not necessarily sent to these reformatories or schools, but their education is supervised at their homes. The Probation Officer sees that a boy or girl who is liable to a criminal career is cared for with his own parents, which, to my mind, is an important feature of this Bill. There is no education for that child — that is the proper kind of education — so good as that which he receives in his own home.

The two advantages arise: first he has the pleasure of a home, such as it may be, and secondly the parents are supervised, to a certain extent, by a Probation Officer to see that their conduct is of such a character as would warrant the child being left to their control. That we do not seem to be able to reach under the Ontario system to the full satisfaction of those concerned in the welfare of delinquent children.

This Bill will aid the Province in carrying out what I think is very important legislation. While we may be jealous of Provincial rights, and I think rightly too, all the Provinces — and I am sure the Province of Ontario will most happily receive any assistance from this House in the way of legislation in the manner I have indicated. These children who would, under this Bill, be under the eye of a probation officer, as in Massachusetts — I think that is the law in Massachusetts — and who would be watched in their homes, and whose parents also would be under the eye of the probation officer, are more likely to grow up with some love for home and with regular habits than they would be if this probation officer exercised no supervision over them, and besides, it seems to me the parents should feel the full responsibility, not only of the intellectual, but of the moral education of their children. If these juveniles are to be taken away from the parents and sent to a school, the connection between the home and the child is broken. I think that should not be allowed when it is at all possible to prevent it. Keep the child with its parents; see that the parents look after him properly, and save the state the expense of his education, for the parent is the natural guardian of the child and responsible for his education and maintenance and in that way you weave into and interfuse into the community the supervision of a court, of a probation officer, whether a man or woman of high character, and thus modify and improve the moral or immoral habits of children who will come under this Act. We are greatly indebted to the Hon. gentlemen from DeSalaberry who has given this measure to this House, and I am satisfied it will be accepted by the people of Ontario, and am sure by all philanthropic and humane people, for they are not limited to Ontario at all, as a useful piece of legislation. I am sorry to notice that our central prison is fuller today than it has been at any time since it was established. Our penitentiaries are being overcrowded. Statistics show that youths from 16 to 21 are becoming less respectful to the law than previously. Of course, a foreign immigration may account for a great deal of this, but apart from that I think it is our first duty to see in the congestion in the large cities, that care should be taken to provide that we have no slums, and that vicious habits are not formed where they can be prevented, and that such homes when brought under the supervision of probation officers, should it fail to have the moral effect sought for, the juveniles should be removed to industrial schools where they can be taught good trades, and rendered beneficial to their country and comfortable to themselves."

Commons Debates (1908) Concerning Juvenile Courts and Probation Officers:

The function of the juvenile court and the probation officer was debated in the *House of Commons, July 8, 1908, third reading*. The debate concerned mainly the court's discretion, also, rights of defendants appearing before such courts, and concluded with an expression of concern regarding the apparently limited time for debate.

Mr. Lancaster acting for the opposition and Mr. Aylesworth, the Minister of Justice, were the primary figures in this debate. Some excerpts are as follows:

Plea: Notification of Parent or Guardian: Omission of Right to Trial by Jury:

The following is essentially negative in its conceptualization of the Probation Officer's role:

Mr. Lancaster: This Bill is dealing with a most serious matter. I do not see one word in it, for instance, in the hurried glance which I have been able to give to it, providing for the protection of child or as to how he is to be defended. He seems to be entirely at the mercy of a person called a probation officer. There should be some provision for the child being able to say he is not guilty if he is not guilty. Whatever the probation officer chooses to do with the child is to be done. It may be all right if we had time to consider it carefully, but what I am pleading for and I do not care if the whole House gets angry with me for doing so . . . I am going to protest against this Bill going through without being carefully considered. We might do it in five or six hours but we cannot in five or six minutes. I think the Minister of Justice will be well advised if he moves that the committee rise and report progress and let us take it up when we have more time. Is there any provision in this Act corresponding to the amendment made by a Bill introduced by me some years ago, providing that when a child was charged with any indictable offence no election for trial could be made without the parent or guardian being notified so as to advise the child.

Mr. Aylesworth: Section 8 provides for that . . .

I can only answer in a very general way as I have not prepared the Bill myself. The whole subject is one to which those interested have given a great deal of attention, and I have been favoured during the past 12 months with a mass of literature dealing with this question. It is stated by writers on the subject that Canada is almost alone among civilized nations in being without legislation of this character. That assertion is too sweeping because there is in Ontario a very elaborate statute going no doubt as far in the direction of this legislation as the Provincial legislature felt itself constitutionally empowered to go. There is legislation of a more or less similar character in other Provinces. I understand this measure has received very careful consideration from the Senate and has been passed with a view to filling a need, in order that the Provincial legislation

might have its full effect. The enactment goes into effect only as and when it is proclaimed in respect of some section of the country which asks for it and where there will be some general feeling of the necessity in it. It must be borne in mind that where this Act is not in force, if any one under the age of 16 years commits an offence, the only recourse under the present law is prosecution leading to fine and imprisonment. This statute will confer upon the court a much wider discretion so as to avoid going the length of imprisonment where it is a young offender.

Mr. Crocket: Is there any discretion left to the magistrate as to whether proceedings shall be taken under this Act or under the general criminal law.

Mr. Aylesworth: When it is an indictable offence and if the child is over 14 then by section 7, the court may in its discretion order the child to be proceeded with in the ordinary way, but unless such an order as that is made all offences of a criminal nature by children under 16 will be tried under the provisions of this Act and not in an ordinary public court.

Mr. Lancaster: If section 7 means that the child is deprived of the right to have a trial by jury, I protest against it. That is although it is an indictable offence and the child is over fourteen years, the court may in its discretion let the case go to the criminal court with a jury, to the assizes or to the sessions. That magistrate ought not to have the discretion to say a child shall not have the right to a jury when it is over fourteen. My objection is to denying to that child the inherent right to trial by jury which we have all enjoyed, since Magna Charta, and which cannot be denied to even a hardened criminal. The right to elect as to trial by jury should be vested in the person accused, and not in some other person, in this case this level-headed judge.

Mr. Aylesworth: My hon. friend is right in the view that this Bill would prevent the advantage of trial by jury, but possibly there are countervailing advantages to the person accused which would be of even greater value. The provision is distinctly made that a child is not to be sent to a common gaol before or after sentence. That in itself is a greater privilege and protection against the danger of the child being destroyed by what is perhaps a comparatively venial offence than the privilege of trial by jury. Cases are continually arising, I have one in mind which has occasioned a great deal of anxious consideration to officials in the Justice Department and actual distress to the judge before whom the child was convicted. A child of some twelve years of age killed another while at play. The jury convicted of manslaughter and there was no other recourse to the judge than to sentence, and feeling that he was obliged to sentence he felt he could not do otherwise than sentence to a substantial term of imprisonment and that youngster is possibly having its life destroyed at the present time in a penitentiary because it was impossible to treat it otherwise than as if it had been a grown man.

Mr. Lancaster: In such case, you could provide for a less severe penalty without depriving the child of the advantage of trial by jury.

Mr. Aylesworth: The objection to trial by jury is the publicity; the whole idea is to avoid that. There is even a provision to prohibit the publication of offences of young people in the newspaper.

Mr. Graham: This clause 7 is at the discretion, of course, of the Magistrate and the enforcement of the law will depend altogether on his judgement. The Act strikes me as one which will be of great benefit. Anyone who has read the record of Judge Lindsay's court at Denver cannot but be impressed with the great good he has done for boys and girls of that city, in fact he is known the world over as the children's judge. It is just on the lines of this Bill that he acts, but of course the usefulness of such Acts depends altogether on the men enforcing them. He must be a man who is trying to reclaim rather than to condemn the child. . . .

Mr. Leighton McCarthy: If the child is allowed the inherent right of trial by jury, which he undoubtedly has under the British constitution, it is put in the hands of the child to do away with the entire benefit of the Act. We are passing extraordinary legislation for the protection of the child, and to amend that as my hon. friend suggests would be to do away with the benefit of the Act.

Mr. Lancaster: You are providing that the parents shall be notified. On being notified, of the case is a serious one, the parent will employ counsel, and the child will have the advice of both the parents and the counsel, and the decision can be safely left to them. But you are leaving the decision entirely in the hands of someone who has no direct interest in the child's welfare.

Mr. Leighton McCarthy: It is the converse of the case which the Hon. gentleman puts. We are passing an enactment for the benefit of the juvenile delinquent.

Mr. Lancaster: How do you know it is?

Mr. Leighton McCarthy: If the hon. gentleman thinks it is not, he should have moved the six months' hoist on the second reading. Having read the Bill the second time, we have admitted the principle and we are providing a special court where the juvenile delinquent will be guarded against publicity and from being sent to the common jail. We are providing a special place for his incarceration. Assuming that this is for the benefit of the juvenile delinquent, we still provide — which is the converse of the case the hon. gentleman puts — that the magistrate shall have the discretion of giving a trial by jury where he thinks the seriousness of the case demands it.

Mr. Lancaster: By section 7 you are taking away the very thing which my hon. friend says is such a wonderful benefit that this wonderful Bill is going to accomplish. Instead of leaving the discretion to the whim of the magistrate, who has no experience of trials by jury and consequently knows nothing about them. I would leave the election to the parent of the child assisted by counsel.

Mr. Carvell: My hon. friend assumes that every criminal case in the Dominion is tried by jury. We have heard him declaim about this inherent right of trial by

jury conferred by Magna Charta, but does he not know that ninety-nine cases out of a hundred, where youths of fourteen years and under are brought before the court, they are tried by the magistrate without a jury? There are numberless instances all over Canada of criminal cases tried without a jury.

Mr. Lancaster: When the accused elect for summary trial?

Mr. Carvell: Without any election at all. The hon. gentleman does not know what he is talking about. For the last hour he has been trying to get his friends to help him out of his wrangling over this matter. Does he not know that more than three-quarters of the cases of assault tried in this country are tried by a magistrate without a jury and the accused has no right to a jury.

Mr. Lancaster: They are not indictable offences.

Mr. Carvell: I know they are not. The hon. gentleman is simply talking against time, and I want him to try and have a little sense.

Debate finally returned to the provisions for proclamation of the Act which had previously received so much attention in the Senate.

Mr. Carvell: On section 35, any city or town may ask for this law.

Mr. Lancaster: Taking section 35 in conjunction with section 34, it would strike me as being rather repugnant. Perhaps the Minister of Justice will explain how it would work out. Section 34, apparently makes it a condition precedent that the Province shall issue a proclamation bringing the Act into force. But under section 35, the act may be brought into force by proclamation, notwithstanding that the Provincial legislature has not passed an Act, if the Governor in Council is satisfied. The Governor in Council would be the Governor in Council of the Dominion, I presume and the proclamation under the section would be the proclamation of the Dominion Government.

Mr. Pugsley: The Minister of Justice (Mr. Aylesworth) is going to move a section to meet that.

Mr. Aylesworth: I move that the following section be added, in these words:

This Act shall go into force only when, and as, proclamations declaring the same is force in any province, city, town or other portion of a province, are issued and published in the 'Canada Gazette'.

Motion agreed to: Bill report, read the third time and passed.

Social Approach of New Juvenile Delinquents Act

The following quotation from the preamble to the Juvenile Delinquents Act indicates the predominantly social approach and emphasis which the legislators intended in dealing with the problems and treatment of delinquency.

“Whereas it is inexpedient that youthful offenders should be classed or dealt with as ordinary criminals, the welfare of the community demanding that they should on the contrary be guarded against association with crime and criminals, and should be subjected to such wise care, treatment and control as will tend to check their evil tendencies and to strengthen their better instincts. . . .”

The Probation Officer's authority for conducting investigations and the approach to be undertaken in treatment and supervision is further amplified in Sections 27 and 31 which read as follows:

27. It shall be the duty of a Probation Officer to make such investigation as may be required by the court; then be present in court in order to represent the interests of the child when the case is heard; to furnish to the court such information and assistance as may be required; and to take such charge of any child, before or after trial, as may be directed by the court.
31. This Act shall be liberally construed to the end that its purpose may be carried out, to wit: That the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but a misdirected and misguided child, and one needing aid, encouragement, help and assistance.

The implications of these and other sections in terms of treatment and supervision are further amplified in Chapter II.

Some Definitions and Procedures:

Child, Juvenile Delinquent and Jurisdiction, 1908 and 1929

Child:

- (1908) 2(a) “child” means a boy or girl apparently or actually under the age of sixteen years.
- (1929) The Juvenile Delinquents Act 1929 left it to the Governor in Council to direct or subsequently revoke such other age by proclamation
— that “child” means any boy or girl apparently or actually under the age of eighteen.

Juvenile Delinquent:

- (1908) 2(c) “juvenile delinquent” means any child who violates any provision of The Criminal Code, chapter 146 of the Revised Statutes, 1906, or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, for which

violation punishment by fine or imprisonment may be awarded; or, who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute.

- (1929) 2(h) “juvenile delinquent” means any child who violates any provision of The Criminal Code or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, or who is guilty of sexual immorality or any similar form of vice, or who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute.

Jurisdiction:

- (1908) 6 When any child is arrested, with or without warrant, such child shall, instead of being taken before a justice, be taken before the Juvenile Court; and, if a child is taken before a justice, upon a summons or under a warrant or for any other reason, it shall be the duty of the justice to transfer the case to the Juvenile Court.

- (1929) 8 The Juvenile Delinquents Act 1929 adds in Section 8 —

“ . . . and of the officer having the child in charge to take the child before that Court, and in any such case the Juvenile Court shall hear and dispose of the case in the same manner as if such child had been brought before it upon information originally laid therein.”

Further provisions of Sections 4 and 9 are as follows:

- 4 “Save as provided in section 9, the Juvenile Court has exclusive jurisdiction in cases of delinquency including cases where, after the committing of the delinquency, the child has passed the age limit mentioned in paragraph (a) of subsection (1) of Section 2, 1929” (i.e. under sixteen).
- 9 “(1) Where the act complained of is, under the provisions of the Criminal Code or otherwise, an indictable offence, and the accused child is apparently or actually over the age of fourteen years, the Court may, in its discretion, order the child to be proceeded against by indictment in the ordinary courts in accordance with the provisions of the Criminal Code in that behalf; but such course shall in no case be fol-

lowed unless the Court is of the opinion that the good of the child and the interest of the community demand it.

(2) The Court may, in its discretion, at any time before any proceeding has been initiated against the child in the ordinary criminal courts, rescind an order so made."

Some Proclamation Dates³

Two of the first locations to bring the new Juvenile Delinquents Act into force by proclamation were Winnipeg, Man., in January 1909 and Ottawa, Ont., in July 1909. Following this the Act was proclaimed in Vancouver, B.C., 1910, Victoria, B.C., 1910, Charlottetown, P.E.I., 1910, Halifax, N.S., 1911, Toronto, Ont., 1911, and Montreal, P.Q., 1911.

Alberta was the first Province to proclaim the Act on a province-wide basis (#3745 published in the Canada Gazette, April 2, 1914).

Some Amendments

The Juvenile Delinquents Act of 1908 was amended in 1912, 1914, 1924 and 1927. Then, after more than twenty years of practical experience, it was thought desirable to undertake a complete revision of the Act in order to bring its provisions thoroughly up-to-date. Pressing for changes were the Canadian Council on Child Welfare and the Canadian Association of Child Protection Officers which made joint representations to the Honourable Mr. Lapointe, the Minister of Justice, asking him to call a conference of interested persons from all over Canada to discuss these matters and make recommendations as to desirable changes in the Act. The Honourable Mr. Lapointe treated the request most sympathetically and a circular letter of invitation was issued, dated September 14, 1928, signed by the Deputy Minister of Justice, calling a closed conference to meet at Ottawa on October 24. This invitation was forwarded to the Attorneys General for all of the provinces, to the officers in the various provinces charged with the administration of the laws affecting children, to all Juvenile Court Judges and Probation Officers, and to a number of other persons whose views would, it was thought, be useful to the conference.

The conference was large and representative, the total number attending being in the neighbourhood of fifty. All the provinces were represented, with the sole exception of Prince Edward Island. After a very full discussion extending over three days, a draft bill was agreed upon, and submitted to the Minister of Justice and this bill, with a few changes required by the Minister, was

³ See Appendix for list of Ontario proclamations and dates prepared by A. H. Sumpter, Inspector; also example of proclamation for the first Juvenile Court in Ontario, being for the city of Ottawa, on the 7th day of July, 1909.

adopted by Parliament and received the Royal Assent on the *14th of June, 1929*. The Act known as "*The Juvenile Delinquents Act, 1929*," and is found in Chapter 46 of the Statutes of Canada.

Next in importance to the Dominion Juvenile Delinquents Act are the various provincial Acts dealing with the constitution of Juvenile Courts. As we have observed, according to Section 34, the Dominion Act might be put in force by proclamation in a province or portion of a province after the passing of an Act by the Provincial legislature to provide for the establishment of Juvenile Courts or designating of existing courts as Juvenile Courts.

We have also observed under Section 35, that prior to the passing of a Provincial Act, the Governor in Council was able to proclaim the Juvenile Delinquents Act in force in any city, town or portion of a Province upon being satisfied that the proper facilities for due carrying out of the provisions of the Act had been provided. It was through this provision that the Act became proclaimed in certain areas of the Province before the passing of enabling legislation by the Provincial Legislature.

Since the constituting of the Courts is vested in the Provinces according to the British North America Act, the Dominion Act was permissive. Furthermore, it provided a number of alternative provisions for the establishment of Juvenile Courts. These alternatives would seem to explain in large part the "patch-work" pattern of development which we observe in comparing the development of these Courts from jurisdiction to jurisdiction across the country.

The Ontario Juvenile Courts Act 1910

How slowly the province moved towards expansion of these facilities is indicated by the fact that Ontario did not pass The Juvenile Courts Act until 1910. This created the Juvenile Court as a court of record and enabled the development of a probation system as part of the machinery. It provided that Children's Aid Society workers might serve as probation officers to the Court.

In 1916 The Juvenile Courts Act was amended to provide for the appointment by the Judge with written approval of the Attorney-General of persons other than Children's Aid workers as official Probation Officers. In 1927 a further amendment made the Attorney-General responsible for both the approval and appointment of Probation Officers. Salaries of Probation Officers were to be fixed by the Lieutenant-Governor in Council, but paid by the City, Town or County in the manner set forth in the Order-In-Council. Concern continued regarding the handling of domestic disputes and other difficulties between husbands and wives by the Police Courts, and since many of the difficulties with such husbands and wives arose in homes in which there were children, consideration was given to having these matters handled by the Juvenile Court Judge.

The Magistrates' Jurisdiction Act, Ontario (1929)

Designating Magistrates and Juvenile Court Judges to Hear Cases Under The Provincial Statutes

In 1929, The Magistrates' Jurisdiction Act was passed. Under this Act a provision was introduced whereby a Juvenile Court Judge or Deputy Judge could be designated and given exclusive, joint, or general jurisdiction by the Lieutenant-Governor in Council to hear and determine cases under any Statute of Ontario where jurisdiction was given to any Justice or Magistrate. This significant step towards the development of Family Courts was made possible by extending the scope of Justices, Magistrates and Juvenile Court Judges. This Act received the Royal Assent on the 28th day of March, 1929. From that date, the Judge and Deputy Judge of the Juvenile Court at Toronto, Ottawa and the County of York, were designated under this Act, and these Courts functioned not only as Juvenile Courts, but also under this wider jurisdiction. As a result of this experience, The Juvenile Courts Act (Ontario), Chapter 281, 1927 was amended in 1934. By this Act, the title was changed to read "The Juvenile and Family Courts Act".

The Juvenile and Family Courts Act, Ontario (1934)

The provision whereby "Juvenile Courts" were to become "Family Courts" is set out in An Act to Amend The Juvenile Courts Act, Chapter 25, April, 1934, in Section 1 (a) as follows:

- 1a.—(1) When under the provisions of *The Magistrates' Jurisdiction Act, 1929*, or of any other general or special Act of Ontario jurisdiction is conferred upon the judge or deputy judge of a juvenile court established under this Act to conduct inquiries or hear, try, determine or dispose of matters in addition to those in respect of which jurisdiction is conferred by this Act, such juvenile court shall be known as the "Family Court" of the municipality or area for which it is established, and the judge, deputy judge, officers and staff of such juvenile court shall be the judge, deputy judge, officers and staff of the family court. *When juvenile courts become family courts.*
- (2) A family court shall continue as a court of record and as a juvenile court for the purposes of this Act. *Continuance of family court as family court.*

The Ontario Juvenile and Family Courts Act was amended in 1954, 1957, 1961, 1962, 1964 and finally through the Juvenile and Family Courts Amendment Act, 1966 which provides for provincial-municipal agreements as outlined on pages 35 and 36.

Jurisdiction of Juvenile and Family Courts Upheld

It is significant that in 1938 serious questioning arose concerning the jurisdiction of Juvenile and Family Courts in regard to five pieces of social legislation mainly affecting children. As a result of decisions by two lower courts, the problem was taken to the Supreme Court of Canada. In decisions known as *Kazakewich vs Kazakewich*, 1936, 3 W.W.R. 699, and *Clubine vs Clubine*, 1937, O.R. 636, the right of the provinces to assign responsibility for implementation of the Acts to Juvenile and Family Courts was questioned. These rights were upheld in the Supreme Court of Canada 1938 reference re authority to perform functions vested by the Adoption Act, the Children's Protection Act, the Children of Unmarried Parents Act, The Deserted Wives and Children's Maintenance Act of Ontario. C.L.R. 1938, Page 398.

Later, the "Archambault Report" (Royal Commission to Investigate the Penal System of Canada, 1938) provided the following supportive conclusion and recommendation relative to the jurisdiction and operation of Family Courts.

"We are of the opinion that the principle underlying establishment of the Family Court is sound, and it is advantageous to have domestic matters whether they affect the parents or children dealt with in such a court. It is important that these Courts should be accessible and that domestic matters should be disposed of summarily. It is also important that these Courts should not be given such wide and unlimited jurisdiction in respect to these matters as will virtually create them courts of superior jurisdiction. In our opinion, such a course would deprive them of many of the advantages they enjoy as summary courts having social and clinical features. Matters that require wider jurisdiction than is ordinarily enjoyed by courts of summary procedure ought still be left to the Superior and County Courts."

All Courts Dealing with Juvenile and Family Matters Become "Juvenile and Family Courts" (1954)

The *Juvenile and Family Courts Act 1954* removed much of the earlier jurisdictional confusion by naming all courts dealing with juvenile and family matters "Juvenile and Family Courts" and by giving their judges identical jurisdiction in relation to the cases appearing in these courts.

Further to the Juvenile Delinquents Act R. S. Canada and The Juvenile and Family Courts Act R. S. Ontario, other Ontario Legislation coming under their specific jurisdiction includes "The Child Welfare Act", "The Children's Maintenance Act", "The Deserted Wives and Children's Maintenance Act", "The Minors Protection Act", "The Parents Maintenance Act", "The Reciprocal Enforcement of Maintenance Orders Act", "The Schools Administration Act",

and "The Training Schools Act, 1965". "The Female Refuges Act" which was formerly under their jurisdiction was repealed March 25, 1964.

Juvenile and Family Court Judges, acting within their powers as Magistrates, may hear certain related criminal charges such as: Section 157 (Corrupting Children through Drunkenness or Immorality), Section 186 (Failure to Provide Necessaries), Section 231 (Common Assault), Section 717 (Where Injury or Damage Feared).

The Early Legislation and Development of Adult Probation

Statutes of Canada (1889) 52 Victoria, Chapter 44

One of the first provisions which enabled Canadian Courts to begin to use the term "Probation" in relation to youthful offenders appears in "*An Act to Permit The Conditional Release of First Offenders in Certain Cases*", *Statutes of Canada 1889, 52 Victoria, Chapter 44, Section 2*:

"In any case in which a person is convicted before any court of any offence punishable with not more than two years' imprisonment, and no previous conviction is proved against him, if it appears to the court before whom he is so convicted, that regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a recognizance, with or without sureties, and during such period as the court directs, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour."

Commons Debates (1889) Concerning 52 Victoria, Chapter 44

In the Commons Debates, March 7, 1889, Sir John T. Thompson made the following statement in moving a second reading of the Bill.

The object of this Bill is very succinctly stated in the preamble:

"To make provision for cases where the reformation of persons convicted of first offences may, by reason of the offender's youth or the trivial nature of the offence, be brought about without imprisonment."

"It has been the practice, in Ontario at least, for the judges to exercise to some extent this jurisdiction, by permitting young prisoners charged with first offences to be liberated on recognizances to appear on a subsequent day when sentence may be delivered, and not to require them so to appear or receive sentence unless they commit some other breach of the law. I am not aware of any authority which justifies that practice. I am aware that occasionally, in Great Britain, in individual cases in which the judge has been strongly convinced that a conviction should not have taken place, he has undertaken to exercise a similar power to release the

prisoner without sentence, on his own recognizance. The power has rarely been acted upon, and only in cases in the old country where the conviction has been obviously improper, as the result of facts proved, or has been such a great hardship, in consequence of the oppressive nature of the law administered as to induce the judge to take upon himself personally the high responsibility of defeating the conviction. It is better, I think, that the system should receive the sanction of law so far as it properly can, and that it should have the safeguards which this Bill proposes, and by which it is provided that in the case of a subsequent offence, the prisoner can be summoned to receive punishment. The Bill is a practical adaptation of Chapter 25 of the Imperial Statutes of 1887."

It is to be noted that while the term "probation" was used, there was no specific provision for "supervision" during the period in which the person was released on Recognizance. Yet there was a provision for such a release either with or without sureties.

The Criminal Code (1892)⁴

In 1892, the laws governing criminal offences in Canada including the provisions of the above Act were consolidated. This was the first *Criminal Code of Canada*. Section 971 of the Code provided for the conditional release of first offenders on suspended sentence and probation. The 1892 limitations which restricted use of probation to "youthful offenders" and to "cases punishable by not more than two years' imprisonment" were extended by an amendment in 1900. This changed the clause "regard being had to youth" to "regard being had to age". Restrictions were further relaxed by permitting probation for offences punishable with more than two years with the concurrence of the Crown.

Section 971(2)

"Where the offence is punishable with more than two years' imprisonment, the court shall have the same power as aforesaid with the concurrence of the counsel acting for the Crown in the prosecution of the offender."

Available information does not reveal the extent to which this Section of the Code was used, nor is there any evidence at hand to indicate whether Courts when suspending sentence provided for supervision. However, the fact that offenders were released conditionally implies that police authorities were at least expected to exercise a degree of control or surveillance over such offenders. In addition, a further control might be introduced by requiring sureties.

In 1906 the pertinent Sections 971 to 973 became Sections 1081 to 1083. In

⁴ Statutes of Canada (1892) 55-56, Victoria Chapter 29, Section 971 (1) and (1900) 63-64 Victoria, Chapter 46, Section 971 (1) and (2).

1909 limitations of Section 1081 were further broadened by the following subsection (4):

"Where one previous conviction and no more is proved against the person so convicted and such conviction took place more than 5 years before that for the offence in question, or was for an offence not related in character to the offence in question, the court shall have the same power as aforesaid with the concurrence of the counsel acting for the Crown in the prosecution of the offender."

Bill #74, Amendment to Section 1081 of The Criminal Code (1921)

In the first reading of a bill regarding *Probation of Offenders, Commons Debates Ottawa 1921*, Mr. H. Mowatt introduced "Bill Number 74" with the following brief, but effective, definition of the probation officer's role in supervising offenders and the ultimate purpose and benefits to be accrued from an official probation system:

"The code contains the provision for suspended sentence. This Bill expands the provision to probation. The probation system is now concurred in by all experienced Judges and Magistrates. The confirmed criminal usually commences with some petty offence. If you brand him then as a convict you will probably assist him to a downward career. If you commit him to the friendly, but authoritative care of a probation officer approved by a Province or Municipality, you may save him for society. The percentages of reclamation under the probation system have been large."

Thus it was, in 1921, that the Criminal Code of Canada S 1081 was amended by the following subsection No. 5 to provide for "Supervision":

"The court in suspending sentence may direct that the offender shall be placed on probation for such period and under conditions as the court may prescribe and may from time to time increase or decrease such period and change such conditions, and that during such period the offender shall report from time to time as the Court may prescribe to any officer that the court may designate, and the offender shall be under the supervision of such officer during the said period, and the officer shall report to the court of the offender as not carrying out the terms on which the sentence is suspended, and thereupon the offender shall be brought before the court for sentence. The offender may also be ordered to pay restitution and reparation to a person or persons aggrieved or injured by the offence for which he was convicted for the actual damage or loss thereby caused and the offender may, while on probation be ordered as one of the said conditions to provide for support of his wife and any other dependent or dependents for which he is liable."

This amendment provided for probation with supervision under any officer designated by the Court as a condition of his recognizance for suspended sentence and probation. Section 1082 also provided that the Court be satisfied

that the Offender or his surety, have a fixed place of abode or occupation before probation was granted. In addition, the Court could order restitution and reparation as well as a condition for support of a wife and dependants.

The 1954 amendments to Sections 1081-1083 of the Code refer only to the "person designated" to supervise rather than "the officer", and do not stipulate specific conditions of abode or occupation. (Amendments 1954 to date are discussed in Chapter II.)

Aside from those provisions which existed for special investigations and reports to the Courts under the Act for the More Speedy Trial and Punishment of Juvenile Offenders 1857, and its amendments, also in the Children's Protection legislation of 1888 and 1894, Ontario's adult criminal courts appear to have used previously established procedures for securing information concerning the age, character and antecedents of adult offenders. This permitted a submission by the Crown as well as the Defense Counsel of affidavits concerning the character of the defendant. Both sides were entitled to be heard on the question of punishment to be awarded, and if the defendant pleaded guilty, the Crown officer was heard first and the defendant's counsel followed. In Ontario provisions for a new type of specialist to supervise probationers and in addition to conduct investigations were only introduced into the adult criminal courts with the provision for an official "probation officer" in 1922. The same safeguards remained with regard to the defendant's rights to cross-examine the officer as to the content of his submission. The officer thus became the court's professional representative for purposes of conducting pre-sentence investigations and reports and providing supervision of probationers. The introduction of pre-sentence reports prepared by probation officers further extended a provision which was already available to the Bench to make such enquiries using the available resources of Crown, Defense and the Police.

Review and commentary upon the following references from "A Study of Adult Probation in Ontario"⁵ along with excerpts from newspaper reports of the day will help to illustrate the climate of opinion and pressures both for and against probation and events leading toward the development of an adult probation system in Ontario. Mr. Taylor observes that it was not surprising both during the first world war and up until 1921-22 when the post-war slump was ending that there was a lack of interest in adult probation. When the need for adult probation was again drawn to the attention of the Provincial Government, the idea met with keen interest on the part of the late Mr. W. E. Raney, the

⁵ Taylor, D. *A Study of Adult Probation in Ontario*, M.S.W. Thesis, Toronto, School of Social Work. Aug. 1952. (The writer acknowledges with appreciation Mr. Taylor's permission to comment upon and include in this chapter in revised form, material previously contained in his 1952 manuscript)

Attorney-General. Judge Emerson Coatsworth, Senior Judge of the County Court, with the approval of Mr. Raney, visited New York City for the purpose of studying probation as it was being used there. On his return, a Probation Act was drafted and submitted to the 1922 session of the legislature. Mr. Raney, Judge Coatsworth and Judge H. Mott (appointed as first Judge of The Toronto Juvenile Court 1916) were largely responsible for drafting this Act.

The Ontario Probation Act (1922)

Ontario Legislature Debates as Reported in the Globe

In 1922, the Hon. W. E. Raney introduced the Probation Act to the Legislature of Ontario⁶ providing for the implementation of probation under the above provisions of the Criminal Code. This Act provided for the appointment of probation officers and designated their duties. It also provided for probation as a possible disposition for offences against the Statutes of Ontario. Finally, an amendment to the original Bill provided that payment of the salaries of probation and clerical staff in Ontario was to come out of the Consolidated Revenue Fund.

Opposition to Ontario Probation Bill (1922)

Concepts and Misconceptions Concerning Probation:

The following column, from *The Globe* 1922, serves to illustrate the fact that this legislation received strong opposition from certain quarters. The reported statements of the respective opponents reveal a basic lack of understanding concerning the proper function of probation, a failure to distinguish between the functions of "law enforcement", "probation" and "parole", the concern that through the Bill as it stood, too much financial responsibility was being foisted on the Municipalities. Finally, it was even suggested that this was merely a measure to provide a job for someone.

The Globe, April 5, 1922

Strong Opposition to Act Foisting Probation Official on Toronto Dewart and Curry Clash

After a long discussion, which culminated in H. H. Dewart, Southwest Toronto, moving for a six months' hoist to it, Hon. W. E. Raney's bill providing for the appointment of probation officers passed second reading in the Legislature yesterday.

⁶ *Journals of Leg. Assembly of Ontario*, Sessions Feb. 14 - June 13, 1922 Bill (No. 70) Introduced to provide for appointment of Probation Officers. Motion for second reading and six months hoist proposed and negatived (154-5) *Second Reading* (155) House goes into committee on 223 230 *Third Reading* 267 RA 280 (12 Geo V C 103)

The Attorney-General explained that at the last session of the Dominion Parliament an amendment was made to the Criminal Code, directing that a Court might place offenders on probation and these offenders should report to an officer the court should designate. The officer in question was provided for in the bill. The bill was intended to supplement Dominion legislation.

For such an innocent-looking bill, it met with considerable opposition. The Attorney-General said that it would apply at present to large centres and that a probation officer would be appointed for Toronto. If other larger places made application the requests would be given consideration.

Mr. Dewart said Toronto had an efficient police force and reports could be made to the parole officer of that force. Speaking as a representative of Toronto, he said there was an increasing tendency to saddle Municipalities with expenditures for things they did not want. The one purpose this bill would serve would be to provide a job for someone. . . . They would be sorry to lose the member for South East Toronto, but it might provide a haven of rest for his weary feet.

"Why not for the member for South West Toronto?" asked Mr. Raney.

"The member for South West Toronto does not need Government assistance" said Mr. Dewart.

Mr. Dewart argued that the appointment of these officers should be left to the Police Commissioners of the city or county.

Curry's Vigorous Reply

J. W. Curry, South East Toronto, made a quick reply to Mr. Dewart regarding the latter's suggestion of a "convenient haven". Regarding this particular position, Mr. Curry said:

"He needs it just as much as I do and is just as apt to take it as I am. There is not any position in the gift of this house that I desire to have." Mr. Curry said it did not tend to fair discussion when any member, because he felt annoyed at another could draw that other member's name into the discussion without justification. He said that as far as he was concerned he did not intend that this sort of thing go on any longer.

Hon. Howard Ferguson wanted to know why Toronto would not assign an officer without extra expense to do this kind of parole work. The idea in the bill if carried out would result in an army of new officers. Mr. Raney said that a request for a probation officer had come from Toronto only, and from that source the pressure was constant. Later he said that the request came from the County Judges.

R. L. Brackin, West Kent objected to that part of the bill which set out that office accommodation and clerical or other assistance for the probation officer should be supplied by the Municipality. He thought the bill should be changed to read that such an officer would be appointed on request of any county or city. Mr. Raney said he had no objection to the change.

W. F. Nickle thought the Attorney-General was making a wrong step in the right direction. It was unfortunate the expenses were not to be borne entirely by

the Ontario Government. If probation was to amount to anything, it should be taken as far as possible from the police force. It was absolutely essential that at the beginning of the criminal career the apprehended person should be taken absolutely away from the police and placed under the control of someone who had sympathy for a person who had made a misstep, and who had a desire to lead the straying one to a better life.

Dr. Forbes Godfrey, West York, objected to a municipality being saddled with the expense of an official it did not want. There were enough officers now, especially for law enforcement.

Premier Drury said he agreed with the remarks of the member for Kingston that the dealing with persons on probation was not a matter for the police. The Government had no intention of forcing the thing on people who are unwilling to have it. The bill might well be passed and sent to committee, he said.

J. C. Tolmie, Windsor, said that personally, he was not in favour of a police officer being a probation officer. Mr. Tolmie, in his argument, said the act would increase the number out on probation, and would lessen the number in prisons and reduce expenses of the Province to that extent, and the Province then could perhaps afford to take the financial burden of these officers.

R. B. Hall, Parry Sound, said he was opposed to the parole system.

Amendment Ontario Probation Bill Provides: Probation Officer, Clerical and Assistants' Salaries to be paid out of Consolidated Revenue Fund.

Opposition in regard to the financial responsibilities which this legislation would have placed on the municipalities was largely met by the following amendment, reported in the *Globe*, May 2, 1922, *PROVINCE PAYS PROBATION MEN*:

Burden of Cost Taken From Municipalities by the Government:

"A significant change was made in Attorney-General Raney's bill creating probation officers, as this measure went through the committee of the whole Legislature yesterday afternoon just before 6 o'clock. Honorable Mr. Raney announced that the province would assume the costs and responsibility instead of placing the burden on the Municipalities. As the bill went through the committee amendments to this effect were introduced and all the clauses were adopted in a few minutes.

From several clauses was deleted the phrase which placed the burden of providing officers and clerical and other assistance on the municipalities.

As it now stands the bill provides that the salaries of probation officers and their assistants, and the expense of providing clerical and other assistance are to be paid out of the Consolidated Revenue Fund of the Province."

Probation with Adult, Juvenile and Family Cases in Toronto and York County

A. First Order in Council for Appointment of Probation Officers under the Ontario Probation Act

The first Order in Council to appoint a probation officer, under the new Probation Act as far as can be ascertained, was dated 19th September, 1922, when Howley Sandford Mott, then Judge of the Juvenile Court of Toronto, was appointed pro tempore probation officer for the County of York and City of Toronto.

The precedent of a judge carrying the dual functions of probation officer and judge was later abandoned as an administratively unsound and inoperable combination of functions.

B. Staff Increases in Toronto and York County Adult Probation Services

Subsequently in Toronto and York County, at the request of the municipalities of the City of Toronto and the County of York, two probation officers were appointed and commenced their duties on November 22, 1922. The rapid growth of probation for adult offenders in the various criminal courts is well illustrated by the fact that within a year the Adult Probation Department of Toronto and York County had six probation officers, three investigating officers and one clerk.

C. Investigations and Supervision (Toronto Adult Probation)

The initial report of the Department includes a statement on investigating, mental assessment, reporting and supervision procedures developed during its first year of operation.

"After the court has found the person guilty, the case is adjourned to give the investigation department a chance to make a study of the individual. The doctor makes a study of the person's mental background while the social worker studies the social area, and how the person reacts to his environment. This is submitted to the doctor who in turn submits a report to the presiding judge or magistrate. If the court then considers probation a satisfactory solution, the person is placed on probation to the officer connected with that court . . . An officer is in each of the following courts: City Police Court, Women's Court, County Police Court, and the County Judges' Criminal Court.

Toronto Adult Probation Dept. Annual Report 1923.

D. Family Matters Added to Toronto Juvenile Court Functions

Judge Mott comments as follows concerning the further development of bringing family matters within the jurisdiction of the Juvenile Court:

"The duties carried on by the Family Court were transferred to us from the Magistrate's Courts in 1929. The Attorney General at that time, the Honourable Mr. Price, states in discussing the transfer, that he felt that marital matters should be taken away from the Magistrates' Courts and dealt with privately, rather than have the publicity that the Magistrates' Court is likely to give. He also felt that husbands and wives should not mingle with people who frequent the other courts and should benefit by the privacy which you find in the Children's Court, which, in a sense, has always been a Family Court. In addition, it would be to the advantage of all to give added jurisdiction to the Juvenile Court, and supply it with the special necessary officers to carry on this work of reconciliation and understanding. Previous to the amalgamation some of the Probation Officers were working in close association with the Magistrates' Courts. In the change, those officers, both from the Probation and Morality Staffs (about the same number from each), were transferred to the Family Court. This was the origin of having our conciliatory staff in the Family Court, part being paid by the City and part by the Province."

Toronto Adult Probation Dept. Annual Report 1946.

During the period 1929 to 1952, the development of Adult Probation Services under the Probation Act occurred in only four centres including Toronto! There were variations in the form of development, and official appointments under the Act in most instances did not occur until some time after the Adult Probation Department in Toronto was established. These developments occurred in the following succession and forms:

Hamilton (Wentworth)

Adult Probation began in 1929 with the designation by the Court of the Deputy Chief of Police to supervise certain adults placed on suspended sentence and probation. The first adult probation officer appointment under the Probation Act occurred in May, 1946. The Big Brother and Big Sister organizations in Hamilton prior to this took an active role in the supervision of juveniles.

In 1930 a probation officer was appointed to the Hamilton Juvenile and Family Court, who also assumed combined responsibility for a limited number of adult probationers. By 1952 there were five probation officers in Hamilton working with combined caseloads from the adult, juvenile and family courts.

Ottawa (Carleton)

The first adult officer was appointed under the Probation Act in 1928 and a second in 1930. The staff remained at two by 1952. These officers also

assumed some responsibility for juvenile and family cases. However, three additional officers were employed by the City of Ottawa making a total of five officers by 1952.

London (Middlesex)

Major T. E. Hobbins began his work under Salvation Army auspices in the London criminal courts in 1944. His work developed to the point where he was employed as a full time volunteer probation officer by 1949. Like Hamilton, the London Magistrate's Court had also designated a police officer to supervise probationers for a period in 1949 prior to Major Hobbins' appointment. In April 1951 Major Hobbins was appointed as probation officer under the Probation Act.

Notwithstanding the publicity given the first Ontario Probation Act 1929, in the period 1929 to 1952 it appears that the Province took the position that initiative should be forthcoming from the local level to have these services established and in turn financed through provincial-municipal agreement as provided under the Probation Act.

One further development of significance in this interval occurred in 1947 when *Probation became available to the Appeal Court* through an amendment to Section 1081. This followed the appeal *Regina v Cruickshank* which decided that the court of appeal did not have power to grant suspended sentence and probation.

Support from the Bench

The significant contribution made by members of the Bench both in the early and recent stages of development is noted. In the court/officer/client/community complex, their concern, encouragement, discriminate use of and support for probation is and has been of the greatest importance in developing and maintaining an effective service.

Their collective interest has been emphasized through a variety of studies and briefs which have been prepared by both the Juvenile and Family Court Judges of Ontario and the Ontario Magistrates' Association, examples of which are:

- (1) Association of Juvenile and Family Court Judges of Ontario, *Report of the Standing Committee on Probation, September 30, 1960.*
- (2) Ontario Magistrates' Association *Report of The Committee on Sentencing, Niagara Falls, Ontario, May 25, 1962, Chap. 2, Page 8-24.*

2 *Organizing and Expanding the Probation Services*

Legislation and Duties of Ontario's Probation Services

Appointment of Probation Officers

There are three separate methods whereby the probation officer may be appointed in Ontario.

1. *Under the Juvenile Delinquents Act (Canada) Section 29*, the officer may be appointed by the Judge of a Juvenile Court. (There are no such appointments in Ontario at present);
2. *Under The Juvenile and Family Courts Act (Ontario) Section 11*, the officer may be appointed by the Attorney-General;
3. *The Probation Amendment Act (Ontario) Section I (1) (1965)* provides for the appointment of probation officers under The Public Service Act, 1961-62.

By each of the first two methods of appointment, the probation officer is usually limited to work in the Juvenile and Family Court to which he is appointed, and under the second method he becomes a municipal employee.

Notwithstanding, it should be noted under the *Criminal Code of Canada, Section 638, Subsections (3) and (4)* that the adult criminal courts designate only "a person" to assume responsibility for the supervision of probationers and for a report back to the court if the accused does not carry out the terms on which the passing of sentence was suspended.

Where eligible for probation under the Code, then it must be assumed that the court could name any person to supervise including the officer appointed under provisions (1) and (2) above.

Juvenile and family probation officers or counsellors, and in some instances other officers carrying certain probation functions, have continued to be employed by local courts and city or municipal authorities such as the following: Metropolitan Toronto is the largest employer of probation staff in Ontario apart from the Provincial Probation Service—Probation Services in the Metropolitan Toronto Juvenile and Family Court and The Probation Services are organized under Mr. B. A. Lane, Supervisor and Co-ordinator of Court Services, Mr. M. Killackey, Supervisor, also Mr. T. Hall and Mr. C. W. Krug, who are Assistant Supervisors.

Locally Employed Juvenile and Family Counsellors and Other Officers Carrying Probation Functions According to Annual Returns for Ontario Juvenile and Family Courts 1965

(a) Municipality of Metropolitan Toronto	34*
(b) Newmarket, York County	1
(c) Ottawa, Carleton County	9
(d) Hamilton, Wentworth County	1
(e) Oakville, Halton County	1
(f) Kitchener, Waterloo County	1
(g) Kingston, Frontenac County	1
(The police commission employs a social worker who assumes certain probation functions under the court's direction)	
(h) Oshawa, Ontario County	1
(i) Sudbury, Sudbury District	2
Total	<u>51</u>

* See: "Province Offers to Take Over Metro Court", *The Globe and Mail*, Toronto, Saturday, March 26, 1966.

Even as this reference goes to press, negotiations are proceeding whereby Probation Officers of the Metropolitan Toronto Juvenile and Family Court may be paid and employed by the Province.

Salaries for probation, welfare staff: The Globe and Mail, March 26, 1966

PROVINCE OFFERS TO TAKE OVER METRO COURT

The provincial Government has offered to take over operation of Metropolitan Toronto Juvenile and Family Court and pay the salaries of all its probation and welfare services staff.

Metro would pay 90 per cent of other operating costs and would pay debentures and debt charges on the court buildings and land.

The agreement would take effect April 1, and run for 10 years. After that time it could be extended, terminated or changed, subject to a year's advance notice by either party.

Those were the terms of a letter sent yesterday from Attorney-General Arthur Wishart to Metro Chairman William Allen, after a year of negotiation between Metro and the province over the court's future.

For a longer time than that, the court has been bogged down in uncertainty arising from divided jurisdiction. At present, Metro pays the costs of running the court; the province hires the staff. For two years in succession, Metro chopped the court's budget from the amount requested. In 1965, the cut was more than \$100,000.

Welfare officials have asserted that the hopes of rehabilitation for scores of troubled children have been impaired because the court and its clinic are understaffed and the staff is overworked.

Ruth Francey, the court's only psychologist, resigned last August, charging overwork, inadequate pay and inadequate facilities for research and training. She has not been replaced; but the salary for her successor will be at least \$10,000. Miss Francey received \$8,000.

Under the arrangement proposed in the Attorney-General's letter, the province would pay for all probation and welfare service staff, now maintained by the municipality at an estimated cost this year of \$305,000.

The amount that the Government would pay this year for staff is under negotiation between the department and Metro, a Government official said last night.

Metro would pay \$590,000 of this year's estimated running costs of the court. The remainder, \$65,000, would be paid by the province. In future years, Metro would continue to pay 90 per cent. The saving to Metro this year would be approximately \$370,000.

Metro Executive Committee will consider the offer on Tuesday. Judge V. Lorne Stewart, senior judge of the court, was ready to present his court's \$858,349 budget to the committee yesterday when he received word that there would be a postponement.

Metro Chairman Allen said yesterday that the proposed agreement could resolve the problems caused by the division of authority, and could be of great benefit to Metro.

"It's an offer," he said. "It looks to be in line."

Metro had made a previous offer, under which it would have frozen this year's lump-sum payment of \$590,000 as the amount due in ensuing years.

The Attorney-General countered with the suggestion that Metro's contribution continue to be 90 per cent of all costs other than the costs of probation and welfare services staff.

Metro will lease the land and buildings of the court at 311 Jarvis St. to the province for a token \$1 a year.

METRO ACCEPTS FAMILY COURT TAKEOVER PLAN:

The Globe and Mail, March 30, 1966

The Ontario Government's offer to take over operation of the Metropolitan Toronto Juvenile and Family Court and pay the salaries of probation and welfare staff was accepted yesterday by the Metro Executive Committee.

Under the agreement, Metro will pay 90 per cent of other operating costs and will pay debentures and debt charges on the court buildings and land. The agreement is to take effect April 1 and run for 10 years. It can be extended, terminated, or changed at a year's notice.

"It took a year of negotiation, but it is a realistic approach," Metro chairman William Allen said.

The saving to Metro would mean more to Metro in the future because the court's probation staff will be considerably increased and the province will be paying the bill.

The arrangement ends the divided jurisdiction whereby Metro paid all the bills and the province hired the staff. "Now, it gets it all under one jurisdiction . . . one source, and they get the blame if there is any — and the praise also."

Metro cut the court's budget for two years in succession, creating problems of understaffing in the court and its clinic.

Appointments in the Ontario Probation Services Branch

The majority of officers in Ontario are now appointed according to the third method whereby the probation officer becomes available to all Courts: Su-

preme, County, Magistrates', and Juvenile and Family Courts in the County, District or part of Ontario to which he is assigned. He thus becomes an employee of the Provincial Government within the Department of the Attorney-General and Probation Services Branch as a civil servant and a probation officer in and for the Province of Ontario.

Primary Functions of the Ontario Probation Service

The two major functional responsibilities of a probation officer are the "*preparation of social inquiries*" such as pre-sentence reports as an aid to the court in sentencing, social histories for the Juvenile and Family Court, pre-release reports for the National Parole Board, and the "*supervision and counseling*" of offenders or other persons as designated.

Preparation of Pre-Sentence Reports

The Advisory Council of Judges in its publication "Guides for Sentencing"⁸ refers to the pre-sentence report as "one of probation's major contributions to the administration of criminal justice." The Advisory Council also provides this effective description of the function of this instrument:

"In the pre-sentence investigation report are gathered, organized, and analyzed the significant data in this history of the defendant. A factual and diagnostic case study gives the judge the instrument essential to achieving objectivity in his final judgement. The more comprehensive the sources of information, the more completely will the report reveal the defendant's characteristic behaviour patterns; the more skillful the presentation of data, the more clearly will the report outline the defendant's strengths and weaknesses. In short, the purpose of the pre-sentence investigation is 'to disclose to the court both the favourable and unfavourable influences at work in the defendant's personality and circumstances in order that choice (of sentence) may be made as wise and enlightened as the predictability of human nature permits'."

A Summary of Statutory Provisions Underlying the Preparation of Pre-Sentence Reports

The Criminal Code of Canada:

The federal legislation relating to our practices in Ontario is found in Section 638 of the Criminal Code of Canada. The wording of this particular Section with regard to considerations bearing upon the disposition is much the same as the wording of the Statute of 1889 — 52 *Victoria* — Chap. 44.

⁸ The Advisory Council of Judges "Guides for Sentencing", National Council on Crime and Delinquency, 1957, p. 26.

The wording of this Statute was:

"... if it appears to the Court before whom he is so convicted, that, regard being had to the youth, character, and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a recognizance, with or without sureties, and during such period as the court directs, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour."

While there was provision for dealing with the offender upon violation of the conditions of his recognizance, there was no provision for the appointment of a probation officer. This was in effect probation "without supervision", yet this could not be regarded as probation in the sense that it is now practised. Probably due in part to the development of official government employed probation officers, terms under which probation may now be granted are less restrictive.

The provision for investigation is found in *Section 638 of the Criminal Code* below. However, the similarity between this provision and the earlier provision of 1889 above will be apparent.

"Where an accused is convicted of an offence and no previous conviction is proved against him, and it appears to the Court that convicts him or that hears an appeal that, having regard to his age, character and antecedents, to the nature of the offence and to any extenuating circumstances surrounding the commission of the offence, it is expedient that the accused be released on probation, the court may, except where a minimum punishment is prescribed by law, instead of sentencing him to punishment, suspend the passing of sentence and direct that he be released upon entering into a recognizance."

The Probation Act:

Enabling legislation is found in *Chapter 308 of the Revised Statutes of Ontario, The Probation Act*.

"It is the duty of a probation officer and he has power with regard to any convicted at a sittings of the Supreme Court for the trial of criminal cases, or at the general sessions of the peace, or at the county judges' criminal court, or at the court of a magistrate or justice of the peace, or at the court of a juvenile and family court judge, in the part of Ontario to which he is assigned —

- '(a) To procure and report such information as to the antecedents, family history, previous convictions, character of employment and other information respecting any person so convicted as the court requires'."

The Work of the Probation Officer in Preparing Pre-Sentence Reports

The work of a probation officer in assembling a pre-sentence report as in supervision is one which requires the application of professional knowledge, sensitivity and skills. His assignment does not simply entail the assembly of a quantity of statistical facts about the subject. A knowledge of professional principles and skills is indicated. The officer must elicit and pursue information along certain lines and in such a manner as to establish personality traits; the development, nature and strengths or weaknesses of home and community conditions and relationships; characteristic responses, roles, patterns of behaviour, performance and possible capacities and opportunities in home, school, employment. The aim is to accurately portray both the conditions and character of the offender before the court. The officer must be knowledgeable in the subject matter and skills of casework and human environment, development and behaviour. In his own life experience and activity, he must reveal a high degree of personal maturity, integrity and capacity for exercising good judgment. He must continue to grow in his knowledge of the workings of the courts, corrections and other community agencies, police facilities and probation services. For purposes of maintaining a degree of professional perspective, treating or controlling behaviour, and changing anti-social values and underlying conditions of delinquency, the officer must strive to keep abreast of the latest applicable research in the social sciences. He must first bring a sincere interest in others, then a certain capacity and willingness to develop his skills in forming relationships, also in working with various individuals and their problems and patterns of response. He formulates plans and expectations with the offender himself and from his own experience and knowledge of his cases and resources as well as the findings of research in the human relations sciences which may be applied in his casework. He must know his community and utilize all of the appropriate and available resources for assessment and treatment. Where such resources do not exist, he will endeavour to encourage their development insofar as this may be possible through service clubs, church groups, and other organizations for the existence or lack of such facilities may often have a strong bearing on the Court's decision to award a suspended sentence and probation, or select another alternative such as reformatory or penitentiary sentence.

Ontario probation officers spend on the average about one-fifth of their total working time in the preparation of reports for both the Adult and Juvenile and Family Courts as well as the Parole authorities. There is considerable variation from office to office since the frequency is entirely dependent on the Bench. While the term "Pre-Sentence Report" is not specifically identified as a legal entity, neither in the Criminal Code nor The Ontario Probation Act except as a "report", our Branch policy concerning their preparation, content and sub-

mission derives from existing legislation and from appeal cases, that is, the court's requirements as governed by the principles of law and its requirements and safeguards, as well as professional principles which are applicable in the preparation of social histories in a variety of welfare settings. The traditional approach has evolved in this context, and there is developing in the field a growing body of knowledge which has become the acceptable and established approach of the probation officer within his legal terms of reference. These practices have evolved from legal and administrative precedents as well as professional principles, which require a somewhat different emphasis and application in the court setting. The difference is illustrated in the adult court setting where the courts have generally come to permit the crown and defense counsel or subject himself the privilege of sighting and challenging the contents of the pre-sentence report. In most other welfare settings, to suggest that the subject should see "his social history" would be regarded as at least a questionable practice and one possibly bordering on a violation of professional principles. The probation officer must therefore be careful to interpret to his sources, collateral agencies, and other persons that absolute confidentiality cannot be guaranteed in regard to their statements. The probation officer comes to value the subject's "right to challenge" as having at least equal priority to the value placed on confidential safeguards which are normally possible and applicable in other agencies.

We have observed that the probation officer is governed by certain differences in legal requirements, expectations, precedents and safeguards in preparing his pre-sentence report which may vary in assembling a social history for the Juvenile and Family Court, where generally the contents may be regarded as a confidential matter between the subject and the court, and where there are greater statutory safeguards by reason of the confidentiality of these proceedings.

A Summary of Criteria Concerning the Preparation of Pre-Sentence Reports

1. Neither the subject nor collateral persons can be assured of complete or absolute confidentiality regarding the information supplied. He would ordinarily be acquainted with the purpose of the report and the safeguards which are applied. However, the officer recognizes that final discretion as to the use of this material resides with the bench. Excerpts have been freely quoted in open court by members of the bench, also by the crown and defense counsel alike in challenging the officer as to contents, therefore assurance of absolute confidentiality is not possible under such circumstances.
2. The contents of the pre-sentence report may ordinarily be challenged by the subject either while it is in process or by the subject or his defense counsel later in open court. This is a safeguard to the subject. We find that it also

ensures that statements supplied by collateral persons will be more carefully weighed in the light of this knowledge. The source will be careful to avoid unrealistic extremes in describing the subject or any event pertaining to his history, if he knows that his statement may be challenged or that he may be subpoenaed as a witness if the court sees fit.

3. Observations must be as factual as possible. The probation officer strives to elicit and verify observations to the end that conclusions concerning the person, his capacities and opportunities will be understood in context. It is in this area that the application of interviewing as well as analytical skills, also professional judgment and discretion, is indicated.
4. A reference to the sources of information is included in the report in order that the court, if it sees fit, may direct that any of these persons be subpoenaed, or if necessary that additional authorities or persons be contacted. Probation Branch policy requires in all cases that the police be contacted as one of these sources.
5. The report is addressed to the justice who originated the request. Ordinarily the crown, defense counsel, and prior to final submission, the offender himself, will have an opportunity to read the report. The subject may wish to question or amplify certain aspects of the content at this juncture, or he may see fit to object in open court. The court usually asks the subject whether he has had an opportunity to read the report, and whether he wishes to raise any objections as to the contents. Certain appeal cases have defined the manner in which such objections are to be handled, and have also defined areas in which the court may exercise its discretion in the matter of preserving confidentiality in relation to the contents. *The case of R. v. Benson and Stevenson, B.C., 100 C.C.C. 247; R. v. Markoff, Sask., 67 C.C.C. 311*, are two important appeal cases in point.
6. In order that the bench may exercise its discretion in the use of psychiatric data or other data likely to be emotionally injurious to the offender or others and elicited during the conducting of his investigation, (a) the probation officer is advised to have the reports of such experts appended in full to his own report or submitted by the expert directly to the court; (b) also in such cases the original report, with appendices and all copies normally directed to crown, offender and/or defense counsel, should be directed to the bench for directions as to distribution.
7. The probation officer will only enter the picture after a finding of guilt. Should material appearing to be new evidence be presented to him in the course of conducting his investigation, this would ordinarily be directed to the crown attorney.
8. The probation officer in undertaking an investigation understands that his

position is an impartial one as an officer of the court, and that it is his duty not only to present the positive factors in the subject's character, background, and current capacities and community opportunities, but also the negative ones, so that a balanced and as far as possible accurate portrayal of strengths and weaknesses in the subject's personal make-up, and in interaction in his home and community situation will be available to the court to assist in its sentence. The probation officer in his concluding section bases his remarks upon his correlation of personal and social factors which he has elicited from the subject, from the observations of others, and including his own direct observations of the subject. He is not in any respect endeavouring to assume the court's sentencing role in weighing-up and identifying the significance of such personal and social factors.

9. The policy of the Provincial Probation Service requires the officer to restrict his concluding remarks to the question of the subject's likely response to probation if it is granted.
10. The substantiating data underlying this statement should be contained in the body and summarized in the concluding section of the report. It is not within the probation officer's area of competence to know what might or might not be likely to result from a sentence to a reform institution; therefore it is our policy to discourage such recommendations in a report. However, it may be within his area of competence to draw some tentative conclusions about the subject's potential as a probationer. This, of course, would be governed in part by his own professional development, years of actual and substantial experience as a probation officer, and, of course, his time and capacity to conduct a thoroughgoing report. (We recommend as a minimum, a remand of two weeks.) The officer includes in his report only verifiable conclusions expressed in tentative form concerning the subject's character; "background" conditions, motivation, patterns of behaviour, and "current" capacities, potentials and community opportunities. Conclusions must be supportable from the material elicited, observed and at hand; therefore the officer may be discouraged from including firm conclusions and possible alternatives concerning a personal and community plan for the subject following a brief remand period, although he must be prepared to introduce, qualify and support such material verbally if called upon to do so by the Bench.
11. If the I.Q. of an offender is included, this must be expanded by any information available concerning his *general mental capacity*. Where possible the pre-sentence report information regarding the offender's *mental capacity* — i.e. — I.Q., psychiatric reports and results of reliable and identified psychological tests should be appended. Whether this is to be submitted

as a separate and confidential report to the Magistrate or Judge, *the Bench is to be consulted*.

12. When investigating "The Extenuating Circumstances Surrounding the Commission of the Offence", or when the offender gives any previous record that he may have, the officer should warn him that he does not have to say anything, but that what he does say may be taken down in writing and appended or incorporated into the pre-sentence report. The reason for this is that he is talking about culpable matters, and should, therefore, be warned about his rights before he gives the information. The "Story of the Offence" should not be included in a pre-sentence report, since this will have been heard in evidence given by the offender himself and other witnesses under oath and by cross examination.

The Ontario Magistrates' Association in its "Report of Committee on Sentencing" May 25, 1962, pages 20, 21 and 23, expresses with clarity and strength the position of many Magistrates of this Province with regard to the need for and use to be made of pre-sentence reports in the sentencing process.

"The day when individualization of sentence, the probation service, and the pre-sentence report is held in question is gone, in Ontario — in England — and in the United States. The entire question today — is in the degree of approach. We vary from court to court, province to province, state to state. Acceptance of the pre-sentence report is not uniform. Its use is obvious to the offender. We can through increasing use of the pre-sentence report in Ontario accelerate its general acceptance in the sentencing process in Canada.

"Greater use of the pre-sentence report undoubtedly would tend to bring uniformity of sentence and soften the use of the harsh, extreme, heavy sentence occurring in areas and jurisdictions of Canada where the probation service is in little use — or not available at all.

"Reading, digesting, and interpreting a pre-sentence report — then applying its information to type, duration and purpose of sentence, takes the subjective hunch system out of the sentence — and opens a door for the Magistrate and to the offender.

"One paragraph or word in a properly investigated report — if interpreted properly by the court — may give years to a man and his family — years of freedom and use to society rather than years of senseless incarceration.

"Equally important — the report may place a person dangerous to society — in a place of safety, whether it be a penal institution, hospital or clinic.

"The interpretation of the report — properly — the use — of the report has placed an increasing burden of responsibility on the 'Magistrate'. Full interpretation of the report — just as full preparation requires technical, diagnostic and analytical training.

"When one considers the effect of sentence on the individual, the family and society one can only envy the surgeon with scalpel. His skill may cure in weeks or kill. The harsh sentence can bring unnecessary pain, suffering and hardship to so many. The skillful use of the pre-sentence report — at least will give rest to the conscience of the Magistrate in the knowledge that as one human in judging another he has put to use every facility within his limited capacity — and called upon the services of the many specialists skilled in diagnosis and treatment of the offender.

"The breakdown in the sentencing process in some jurisdictions occurs when the sentencing authority refuses to accept investigation and pre-sentence report before sentence or does not have probation service available and cannot direct a report. As one member of a team he fails to appreciate his own limitations or the other's skill.

"One would, I am sure, agree that the pre-sentence report — as such is for the Court — a report for assessment. The probation officer is not directing the court — and some might feel that in stating the report 'is not to suggest to him what he should do' that the probation officer is underplaying the use to which the report is to be put.

"A full and complete report does suggest what adequate sentence would be — that is its purpose — that is 'one of the probation service's major contributions to the administration of criminal justice.'

"Lord Chief Justice Goddard at the annual meeting of The Magistrates' Association held in Great Britain in 1957 — suggests that the Magistrate in accepting the pre-sentence report should accept the 'full and frank' opinion of the probation officer. It is, he suggests, perfectly right that he should say, for instance, 'this man, I feel, will not benefit from probation.'

"The Probation Officer submits a factual report — the substance of the report suggests disposition, through sentence by the court. If the Probation Officer in assessing his report feels he can do little for the accused on probation his statement to this effect is merely opinion and can be accepted or rejected by the Court. The interpretation of the facts in the report by the Probation Officer may not be the interpretation of the Magistrate, for purpose of sentence. There is no question of who is making the evaluation for sentence and imposing sentence."

Social Histories

These are assembled under the provisions of the *Juvenile Delinquents Act, Section 31*:

"It is the duty of a probation officer to make such investigation as may be required by the court; to be present in court in order to represent the interests of the child when the case is heard; to furnish to the court such information and assistance as may be required; and to take such charge of any child, before or after trial as may be directed by the Court. 1929, c.46, s.31."

When we refer to social histories in the probation service, we usually mean histories prepared for the Juvenile and Family Court. It is equivalent to the pre-sentence report in the Adult Criminal Court, only in many cases would go beyond the pre-sentence report in its analytical and planning content. In the case of a juvenile, there may be more resources and alternatives available to the court. The officer would have these alternatives in mind at the point of assembling his investigation. However, he would concentrate on strengths and weaknesses in the individual and his background and present home and community situation.

The term social history is also used in relation to any more extensive analytical reports on the background, problems, and circumstances of a case which we might be obliged to prepare for another agency, with whom we are co-operating either in the pre-sentence or post-sentence stages. For example, if a person is remanded for a psychiatric assessment, the probation officer may be asked to compile an extensive social history for clinical purposes. Our report would contain fundamentally the same information which one would find in the usual pre-sentence report. However, the material might be more penetrating and extensive, and since it is being used for clinical purposes, might contain more analytical content. Our responsibility would be to observe and elicit data concerning personal interaction in the subject's home and community environment and background as behaviour determinants, whereas the clinical assessment would largely rely upon interviews and tests involving mainly the subject and his immediate family. Reports in these cases usually go somewhat beyond the ordinary pre-sentence report. They are not intended for the courts, and usually prepared over a greater span of time, yet we also refer to such reports as "social histories". They would, of course, be further qualified in the title with some indication of the clinic or agency to whom they are addressed.

Provision for Report into Conduct and Means to Pay Fines

Courts have occasionally called upon the Probation Service to prepare certain other reports for their use in sentencing; e.g. *Section 622, Criminal Code of Canada, Subsection 10*, outlines the conditions for imposing a fine and allowance of time to pay:

Section 622:

- (10) "Where a person who has been allowed time for payment appears to the court to be not less than sixteen nor more than twenty-one years of age, the court shall, before issuing a warrant committing the person to prison for default of payment of the fine, obtain and consider a report concerning the conduct and means to pay of the accused."

A Summary of the Statutory Provisions for Probation Supervision of Adult Offenders

Probation Supervision Under the Revised Statutes of Ontario

For non-criminal offences of a summary nature against any Statutes of Ontario, the Provincial legislature has provided for use of probation in *Chapter 308, Section 6, Revised Statutes of Ontario 1960*.

Significant of the progressive thinking of the drafters of this piece of legislation is the fact that it provided for the release on probation of good conduct, of a person "charged" although not necessarily convicted of an offence against an Ontario Statute. The penalty provided for violation of probation in such cases is a fifty dollar fine. The information on the original offence is relaid and the trial proceeds on the original offence. The provisions of this Act enable the court to proceed with the trial up to the point of sentence, and thereby be provided with the benefit of any fresh evidence which might be presented.

Probation Supervision Under Sections 637 to 639 of the Criminal Code of Canada

In 1954, *Section 638 of the Criminal Code (formerly Section 1081 of the Code)* provided for a suspended sentence with probation under a person designated by the Court for a maximum period of two years. Although the Act does not now require the Crown's concurrence for probation for serious indictable offences, it still limits the discretion of the court with regard to the persons who may be placed on probation. It is also to be noted that the court may place the offender on probation to "any person" designated. This may include the official probation officer, but it is not restricted to the exclusive use of official probation services.

Section 638 (1) of the Criminal Code provides that probation may not be granted where a minimum punishment is prescribed by law.

The same Section at subsection 5 contains conditions affecting a person previously convicted: Where one previous conviction and no more is proved against an accused who is convicted, but the previous conviction took place more than five years before the time of the commission of the offences of which he is presently convicted or was for an offence that was not related in character to the offence of which he is convicted the court may, notwithstanding subsection (1), suspend the passing of sentence and make the direction mentioned in subsection (1).

Section 639 provides for the issuance of a summons or warrant when the terms of a recognizance are not observed.

"A court that has suspended the passing of sentence or a justice having jurisdic-

tion in the territorial division in which a recognizance was taken under Section 638, may upon being satisfied by information on oath that the accused has failed to observe a condition of the recognizance, issue a summons to compel his appearance or a warrant for his arrest."

In his article, *History and Function of Probation*, the Director has drawn attention to one particular shortcoming in Section 638. This is a criticism of the ambiguous provision for probation either with or without supervision and the fact that suspended sentence can now be granted only through the medium of probation.

This provision for probation without supervision is a serious misnomer since the term "probation", according to both American and British traditions, has always implied supervision in lieu of punishment. Moreover, extensive application of the term "probation" in relation to those cases released "without supervision" could have adverse affects on probation as we know and understand the term if this confusion is permitted to persist. The possibility of such adverse publicity resulting in reflection upon official probation services is particularly evident in those cases in which recidivism occurs in the case of persons released without supervision, and they are subsequently reported as being on probation.⁷

In 1960, Section 637 of the Criminal Code was amended to provide for probation supervision in addition to or in lieu of sentence following criminal conviction and to those conditions which might be imposed under Section 638 of the Code.

A difference of procedure follows a violation of a recognizance under Section 637 in that the offender having already been punished for the offence, cannot be sentenced on the original offence in accordance with an order made under Section 638 and violation procedures of Section 639, but can only be handled by estreatment of the Recognizance Bond as per Section 676 of the Code.

Supervision

The wording of the Code is clear in its use of the term "Supervision". Supervision in probation implies individualized help and counselling as well as skilled use of authority in the treatment of the offender; often involvement of his family or immediate associates, and usually use of community resources. The probation officer is frequently expected to intervene, giving direction where indicated, either to assist the probationer on the road to rehabilitation, or to help him resolve certain problems or conflicts which may present an

⁷ Coughlan, D. W. F., Director of the Ontario Provincial Probation Service, "*History and Function of Probation*", The Canadian Bar Journal, June, 1963.

obstacle. On the other hand, he now marshalls the same skills which he has utilized in the process of assembling his initial report on the subject, to understand and help the probationer to learn to become a mature and self-sufficient citizen. In this process he endeavours to help the subject towards a more responsible use of his freedom. He encourages him in identifying needs, problems, and alternatives; in decision-making, and the acceptance of responsibility for the results of these decisions, and in goal-setting, planning and moving towards the achievement of certain mutually established goals. These goals may include the identification, pursuit and implementation of a vocational or educational plan, association with resources to assist with special problems such as alcoholism, or the resolving of certain inter-personal problems within the family, community or employment situation. In comparing the variety of cases and problem situations which the probation officer ordinarily encounters with those of any other agency, it would be hard to find its equal in terms of variety and complexity. The frequency of supervisory interviews or home visits is ordinarily defined in the Recognizance as one of the conditions. While a minimum of one interview per month is usually prescribed, it is customary to see the subject more frequently during the beginning phase when problems are most pronounced. As these problems are defined, plans evolved and movement occurs towards established goals, these interviews may taper off to the point where the subject is seen on a monthly basis. In certain cases, where the subject has demonstrated a degree of responsibility in reporting, meeting prescribed conditions, and achieving certain goals, the probation officer may see fit to recommend an early discharge. The court is permitted to entertain such proposals according to Section 638, subsection 2 (b) Criminal Code of Canada, which states that it may from time to time change the conditions and increase or decrease the period of the Recognizance.

The Probation Recognizance

Should the court decide to award probation, the Criminal Code provides for release upon entering into a Recognizance in Form 28, with or without sureties and that it may prescribe as conditions of the Recognizance that "the accused shall make restitution and reparation to any person aggrieved or injured for the actual loss or damage caused by the commission of the offence." The probation officer recognizes that this may be an important part of treatment and a learning experience for the subject. He will encourage the subject to assume his responsibility and retire this debt well within the designated period. Failure to do this will result in a violation report.

The court may also require that the subject provide for the support of his wife and any other dependents for whom he is liable, and it may impose such

other conditions as it considers desirable in the circumstances. It may upon application change the conditions and either increase or decrease the period of Recognizance on the basis of problems presented, regression or progress but no Recognizance shall be kept in force for more than two years.

The probation officer will ordinarily interpret the Recognizance as a binding legal document. The probationer is bound to keep the peace and to be of good behaviour during the period fixed by the court and to appear and receive judgment when called upon during the period. In a certain sense it may be interpreted as binding upon both the probationer and himself. The officer's obligation to report violations is clear, and this should be made known to the subject from the outset. Nevertheless, the probationer should also know or be helped to see that within the prescribed conditions, there remains considerable scope within which the probationer may use or be helped to use his freedom to demonstrate his capacity and desire to become a responsible and productive citizen.

Another form of Recognizance is used in relation to offences against the Ontario Statutes. Related procedures are to be followed in the case of an application to vary or in the case of a violation.

Recording

Recording policy in the Ontario Probation Service has been formulated with the object of leaving as much time as possible available to the officer for face-to-face work with his clients, the immediate goal being regarded as fifty per cent of his total time. A notebook for individual interviews and the quarterly case record summary are intended to identify and account for all subject and collateral contacts. Both are intended to serve combined purposes of accountability and study and teaching media for Supervisors. There is provision for early diagnosis and tentative planning and for such reformulations on a quarterly basis as are indicated from the summary of activities, events, progress, regression or changes in the subject or his situation.

Violation Procedures

Probation is not leniency. Where the prescribed conditions have been violated or where there is a subsequent offence, Section 639 provides for the issuing of a summons or a warrant.

"A court that has suspended the passing of sentence or a justice having jurisdiction in the territorial division in which a recognizance was taken under Section 638 may, upon being satisfied by information on oath that the accused has failed to observe a condition of the Recognizance, issue a summons to compel his appearance or a warrant for his arrest."

It is the policy of the Probation Service to require officers to submit a full statement concerning the violation in the first instance, as well as the subject's conduct and reporting record, so as to leave discretion with the Justice in the matter of having an information sworn out, and either a summons or warrant issued.

Where the Court sees fit to have the subject returned, in accordance with Section 639, subsection 4:

"The Court may, upon the appearance of the accused pursuant to this Section or subsection (4) of Section 638 and upon being satisfied that the accused has failed to observe a condition of his recognizance, sentence him for the offence of which he was convicted."

Thus the probationer whose sentence was originally suspended, may be brought before the court for failure to observe any one of the conditions of his recognizance, and sentenced on the charge on which the passing of sentence was suspended. In accordance with the provisions of Section 638 the court may vary the conditions of the recognizance or increase the period of probation rather than impose sentence following a breach of probation.

While the above paragraphs have stressed the officer's work with adults, his work with juveniles and families is of equal importance, and the principles which he applies in interviewing, investigating and supervision are comparable. Having regard to age, intelligence and learning capacity, and the particular problems presented, it follows that he must adapt his methods to suit the particular case.

Probation Work With Juveniles

Actions of children, within the terms of the Juvenile Delinquents Act (Canada), may involve violation by a boy or girl apparently or actually under the age of sixteen of any provision of the Criminal Code, or statute of the Dominion, a province, or by-law of a municipality, guilt of sexual immorality or any similar vice, or certain other acts which might make the child liable to committal to an industrial school or juvenile reformatory. (e.g. *Section 8 of the Training Schools Act (Ontario)*, or "*habitual truancy*" under the *Schools Administration Act (Ontario)*, 1962.)

The probation officer's basic responsibilities, investigation and supervision, remain unchanged in his work with juveniles in the Juvenile and Family Court. However, the legislation permits the court a much greater latitude than we find in the adult criminal courts. The following quotations illustrate the social intent of this legislation, and therefore, the philosophy, focus and objectives within which the probation officer must apply self and skills.

"Whereas it is inexpedient that youthful offenders should be classed or dealt with as ordinary criminals, the welfare of the community demanding that they should on the contrary be guarded against association with crime and criminals, and should be subjected to such wise care, treatment and control as will tend to check their evil tendencies and strengthen their better instincts."

(1907-8) Statutes of Canada 7-8, Edward VII Chap. 40;
 "The Juvenile Delinquents Act, 1908" Preamble

The following and other sections of the Act underline the emphasis to be placed on understanding and treating the individual delinquent; also the importance of involving parents or guardians and appropriate community resources to the end that care and supervision shall approximate as nearly as possible that which shall be given by its parents.

"This Act shall be liberally construed to the end that its purpose may be carried out, namely: That the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable, every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance."

R.S.C. 1952, Chap. 160, The Juvenile Delinquents Act
 — 1929, Sec. 38.

We also observe under Section 22 (1) that a fine, damages or costs and restitution may be required of the parent or guardian who conduces to the commission of a delinquency, or fails to exercise due care over the child. Section 33 (2) provides for a fine of up to \$500 for contributing to a child becoming delinquent, or in the case of a parent or guardian, failure to prevent or remove conditions that render or are likely to render the child a juvenile delinquent.

Support for and we think valid criteria referring to the jurisdiction of Juvenile Courts in relation to juvenile delinquents "and their parents" are found in the following "discussions" as reported in "The Times", February 9, 1966, regarding the recent "White Paper", The Child, the Family and the Young Offender. Great Britain:

WHITE PAPER UNDER ATTACK

The White Paper on the treatment of young offenders is now itself almost six months old. Published "for the purposes of discussion", it has certainly provoked it. First, the probation officers, then the magistrates, and — yesterday — prison and borstal governors, have suggested that this babe of the Labour Party's penal policy should be exposed upon the nearest hillside. The argument was to be expected. The reconstruction of the juvenile courts, and the general methods of dealing with juvenile offenders, were laboriously debated by the Ingleby committee six years ago.

Agreement foundered then, as now, upon two rocks of conviction. The first is that

young offenders are, though young, members of society who must not be punished or deprived of their liberty unless a charge is fully brought home. The second is that society might be able to forestall or prevent delinquency if it could uproot the seeds of it early enough. The law, as it stands, takes the first view. There may be many juvenile court magistrates who feel, from time to time, that a boy might well have been stopped from taking up a life of crime by suitable treatment, if only the evidence in his case had been strong enough to prove guilt. In default he was, so to speak, not found guilty. Yet it is a matter of record that, in the juvenile courts, there are relatively few such cases. Usually the facts are not in dispute, and in the administration of justice the duty to prove guilt must be preserved. Magistrates' benches should not be burdened with the entirely subjective judgment of whether a boy's or girl's future may be improved by "treatment" unless they are entirely sure that the defendants have, in common parlance, broken the law.

The White Paper took two bites at this particular cherry. First, family councils would be set up by local authorities; they would work through children's committees which, in an informal way, would seek agreement with a child's parents about ways and means of dealing with the child who seemed to be going wrong. Secondly, if agreement could not be reached, the disputed cases would be judged by family courts, made up of justices. Some of the objections that have been taken to this are made on technical grounds (shortage of qualified staff, for instance) but these should not prevent discussion about principles.

The prison governors are on firm ground when they remark that it is unrealistic to expect irresponsible parents to behave in the responsible way which the White Paper envisages. Anyone with experience of juvenile court work will readily confirm this view. It is only too probable that such parents will readily agree to any course which will absolve themselves of direct responsibility for their offspring. But such courses need not be right, either for the parent or for the child.

Powers and Duties of Probation Officers Under The Juvenile Delinquents Act (Canada)

30. Every probation officer duly appointed under the provisions of this Act or of any provincial statute has in the discharge of his or her duties as such probation officer all the powers of a constable, and shall be protected from civil actions for anything done in bona fide exercise of the powers conferred by this Act. 1929, c. 46, s. 30.

31. It is the duty of a probation officer to make such investigation as may be required by the court; to be present in court in order to represent the interests of the child when the case is heard; to furnish to the court such information and assistance as may be required; and to take such charge of any child, before or after trial, as may be directed by the court. 1929, c. 46, s. 31.

32. Every probation officer however appointed is under the control and subject to the directions of the judge of the court with which such probation officer is connected, for all purposes of this Act. 1935, c. 41, s. 2.

R.S.C. 1952, Chap. 160, The Juvenile Delinquents Act, 1929, Secs. 30, 31, 32.

Probation Work With Families:

A. Occurrences

The work of the probation officer in the Family Court differs from his work with juveniles or in Criminal Court. With the Court's direction and approval, he usually enters the scene in marital conflicts before any charges are preferred, and his counselling efforts are then directed towards an attempt to help the disputing parties solve their difficulties without recourse to court action. This may involve the use of other appropriate agencies and services. However, if formal court action becomes necessary, apart from those cases where under directions from the court the deserting husband is ordered to report to the officer, theoretically his task should be at an end in such cases. Unfortunately, from the standpoint of total demands upon the officer's time, this does not always occur in practice. In most jurisdictions community resources are limited; therefore in addition to family cases referred by the court, a probation officer will from time to time be called upon to handle a small nucleus of hard core and often other quite demanding voluntary occurrences including both individual and family cases. As certain problems are presented, solutions are sought and frequently found . . . , the contact may be broken or a referral effected and a type of personal or family stability is facilitated until the next crisis appears. These recurring "first-aid" cases might even have been carried as part of his formal caseload at one point either in connection with a juvenile, adult or family occurrence or order. Although the formal order terminates, should individual or family stability again be threatened as new problems appear, the probabilities are high that they will again turn to the probation officer who has been a previous source of help and assistance.

The probation officer, as a public servant, maintains an "open door" policy in relation to his former clientel, both successes and failures, who might return to seek his assistance. However, with regard to these as well as his other voluntary clients, it must be understood that he has no official jurisdiction concerning their affairs. Like any public or welfare agency representative he will see the voluntary client to help identify the need or problem and if indicated and possible, effect a referral to the appropriate agency. He thus becomes the catalyst in bringing together people with their problems and needs and the appropriate resources, having both the necessary competence and jurisdiction to deal with them.

B. Formal Provisions for Ordering either a Deserting Husband or Putative Father to Report to a Probation Officer

Duties of the Probation Officer in respect of the *Deserted Wives and Children's Maintenance Act*:

Legislated duties are covered under the provisions of *Section 4, Subsection 2*:

"When an order for the payment of maintenance support has been made under this Act, and the person for whose benefit the order is made is a public charge, or where the Magistrate or Judge who made the order is of the opinion that if default should occur in complying with the order, the person for whose benefit the order was made may become a public charge, the Magistrate or Judge may order the person required to make the payments to report to such officer as he designates at such times and during such period and at such place as he considers necessary to ensure that the order for payment will be complied with."

In addition to supervision, there is an obligation placed upon the officer to report violations and the penalty is given in *Section 4, Subsection 4*:

"Every person who without reasonable excuse fails to report to an officer when ordered so to do under this Section is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months."

While the above Sections provide for official supervision under the provisions of the Act, it has been the general policy of the Department to permit the Courts to use Provincial Probation Officers for pre-judgment family counselling. Authorization for the provision of such services is found in a memorandum to all Juvenile and Family Court Judges dated *December 9, 1959, from Mr. W. B. Common*:

"Probation Officers will remain available for pre-judgment family counselling and post-judgment counselling when specifically ordered by the Court.

The finding of desertion may occur where, in the separation of husband and wife, the wife is forced to live apart because of her husband's adultery or cruelty, or fear of injury to herself and the children; or where the husband leaves his family and fails to support his wife and children. There is the basis for formal court action in any of these circumstances. However, involvement of the officer in counselling the parties at the pre-judgment stage and under the direction of the court may avert the complete break-up of the family, and undoubtedly in many cases, thus prevent the addition of innumerable families to provincial and municipal public assistance rolls, where husbands decide against meeting their obligations and either disappear or otherwise refuse to accept their responsibilities. (Provisions exist in the Reciprocal Enforcement of Maintenance Orders Act for proceeding against such defaulters. However, a number move to jurisdictions not covered under any agreement or in some cases they simply keep moving or resort to other methods to prevent their being traced.)

C. Provisions For Supervision Under The Child Welfare Act

These are found in the *Child Welfare Act, R.S.O. 1965, Section 61, Sub-section 1*:

61. — (1) Where the child for whose benefit the order for maintenance is made is a public charge or the judge is of the opinion that, if there is default in the order, the child is likely to be a public charge, the judge may, in the order, order any person required to make payments thereunder to report to a probation officer at such times and places as the judge deems necessary for the purpose of ensuring that such person is complying with the order. R.S.O. 1960, c. 53, s. 54 (1) amended.

As in the case of the Deserted Wives and Children's Maintenance Act above, Subsection 3 provides:

"Every person who without reasonable excuse fails to report to a probation officer when ordered so to do under this section is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months."

D. Role of the Probation Officer and Role of the Court Where Action Contemplated

Judge Stewart, of the Juvenile and Family Court for the Municipality of Metropolitan Toronto effectively distinguishes the roles of the judge and probation officer in dealing with conciliation cases both at the pre-court stage and where court action is contemplated.⁹

"Court Actions (Domestic Cases). Where the parties insist on having their cases heard, or where the matter has developed to the point where this is the natural next step, the family counsellor makes the necessary arrangements to place the case before a Judge. Keeping in mind the purpose of the Juvenile and Family Court, the door should never be closed to the possibility or reconciliation even at the stage when the case is before the court and no Judge sitting in these courts is likely to overlook any glimmer of hope that the parties will become reconciled. However, it seems important to distinguish between the functions of the Juvenile and Family Court Judge and those of the family counsellor. The former is unwise to attempt to see the parties privately. Any such interview would leave him open to criticism and any subsequent decision to misunderstanding. If family counselling has failed, they are entitled to have their cases heard. They should not be denied this right."

⁹ Bigelow, S. T. *A Manual for Ontario Magistrates*, "The Juvenile and Family Court" Contribution by Judge V. L. Stewart, The Queen's Printer, Toronto, 1962, pg. 100

Jurisdiction, Policies and Procedures of the National Parole Board Affecting Probation

"The National Parole Board has jurisdiction over any adult inmate serving a sentence under any federal statute in either a federal or provincial institution. It has no jurisdiction over a child under the Juvenile Delinquents Act (Canada), or an inmate serving a sentence for a breach of a provincial statute; e.g. Liquor Control Act."

"The Board also has jurisdiction to revoke or suspend any sentence of corporal punishment, or any order made under the Criminal Code prohibiting a person from operating a motor vehicle."¹⁰

In Ontario and British Columbia, Provincial Parole Boards have jurisdiction to give parole for the indeterminate part of a prison sentence under conditions approved by the Minister of Justice.

Preceded by the Ticket of Leave Act 1899 and R.S. Canada 1952, Chapter 264, the National Parole Act R.S. Canada, Chapter 38, 1958 (Act to Provide the Conditional Release of Persons Undergoing Sentences of Imprisonment), empowers the Parole Board to review applications and provide for guidance and supervision of paroled inmates. Probation officers are involved in supplying pre-sentence reports for the Board, preparing comprehensive pre-release reports in which the proposed community, home and employment situation is examined prior to release. Finally, at the discretion of the National Parole Board, the inmate may be released under its Regional Representative to the supervision of the probation officer named in his "Certificate of Parole". He is thereby "at large during the period of his imprisonment" but "not free".

The Court's "Recognizance" and National Parole Board's "Certificate of Parole" are similar entities in that both prescribe certain conditions which are to be binding upon the offender, during a period, under supervision in the community. These conditions are thoroughly explained and must be enforced from the outset. They are different only in the sense that one prescribes conditions to be followed while the sentence "is suspended", while the certificate of parole involves a shortening of the period of punishment in exchange for the keeping of certain conditions while under "certificate of parole". Violations are regarded as a serious matter to be reported to the authorities with the subject being obliged to face the possible consequences. These include the likely possibility of sentence on the original offence in the case of the probationer, or in the case of a parolee, "return to custody" to serve the unexpired balance of the sentence which remained at the time of his release plus any additional

¹⁰ Street, T. George, Q.C. Chairman, National Parole Board, *Canada's Parole System*, Brochure on Parole for Judges, Magistrates, Police and Parole Supervisors; The National Parole Board, Ottawa; 1962, p. 3.

sentence imposed in connection with an offence which constituted the violation.

The procedure in the case of a violation of probation conditions has been previously explained.

In the case of a parole violation, the procedure is as follows:

"The National Parole Board can 'alter', 'suspend', or 'revoke' the Order for Parole if there is 'cause'. The Regional Representative has been given the authority to modify certain conditions of parole and can issue a Warrant for the apprehension of a parolee, which suspends his parole until the Board has had an opportunity to examine and to review the case. This is done when warnings have not been heeded by the parolee and it appears that he is heading for further trouble and, therefore, needs to be placed in custody both for his own protection and that of the community. The Parole Board, after studying the report, may order that his parole be revoked or that he be permitted to continue on parole under the same, or varied, conditions."¹¹

The major responsibilities of the officer in relation to candidates for parole and parolees as with candidates for probation and juvenile and adult probationers, remains substantially the same: investigation and supervision. The same knowledge and skills are applied and essentially the same community resources are involved and used. However, some distinctions may be drawn between the officer's work with probationers and parolees on the basis of purposes identified in the underlying legislation.

The Pre-Release Report requires a concentration and focus upon the current community situation. Probation officers are encouraged to express their opinions as based upon their first-hand observations, their actual and substantial experience, and application of professional knowledge and judgment to the data elicited and at hand concerning inter-personal situations, problems in the community, also the family and employment situation to which the subject is likely to return. In thus expressing his own detailed evaluation, opinion and recommendations, the probation officer exercises greater discretion than he would in the case of a pre-sentence report.

In the supervision and counselling of probationers and parolees alike, protection of the public is paramount over all other considerations. However, the parolee may be returned to custody on much less substantial grounds than those which would usually apply in the case of a probationer. In fact, a mere suspicion of violation or even the subject's likelihood to violate is all that is required to justify a report to the Regional Representative of the National Parole Board, who will in turn decide whether a warrant will be issued. Ordinarily the probationer will have violated certain specific conditions of his recognizance, or must have committed a further offence, before a violation report is submitted.

¹¹ "A Guide for Parole Supervisors" — National Parole Board, Ottawa, Aug. 1963, p. 3

Probation Under Section 637 Compared with Parole

Notwithstanding the above distinctions between probation and parole, the recent provisions of Section 637 of the Criminal Code of Canada now tend to add to the confusion between the two measures since this provision now provides authority for probation officers to supervise offenders on recognizance, in addition to or in lieu of a sentence following criminal conviction. This enables provinces where provincial parole facilities have not heretofore been established to use a provision which is similar to parole. The discretion is exercised at court level rather than at the level of the Provincial or National Parole Board. The recognizance for probation under Section 637 will ordinarily come into effect immediately upon expiration of the penal sentence.

Unlike the provisions for violation of probation with suspended sentence under Sections 638 and 639 where sentence upon the original offence usually follows a violation report and hearing, violations of a recognizance made under Section 637 of the Criminal Code can only be dealt with by estreatment of the bond monies. The process for this estreatment is provided in Section 676-679 of the Code whereby the matter may be placed before a County Court Judge who might order the estreatment of the bond monies or take such process as is defined in law to satisfy the judgement. The process of estreatment proceedings is possible in relation to all violated recognizances, but, in practice, it is seldom carried out in cases of violated probation recognizances. Section 676 requires a Justice having knowledge of the facts of a violation, to endorse the violated recognizance Form 28 with Form 29 and to transmit it to the higher court for processing.

Diversity and Unity

Criticism has from time to time been lodged concerning the variety of services assigned to the probation officer. From our standpoint the developments outlined above have been logical. Criticism might conceivably be lodged if government failed to provide the necessary staff to provide both the statutory and delegated services which have been assigned.

From an administrative, economical and service standpoint, it is logical to have such "probation services" (frequently involving the same clientele as well as similar skills and resources) centralized at the local level where they are accessible both for service and to meet the needs and requirements of probation clients; also for purposes of effective liaison with and use of all of the local agencies and collateral services with whom the officer and his clients must be involved.

Further criteria bearing upon this matter are found in "The Organization of After-Care", London, Her Majesty's Stationery Office, 1963, Sections 98 to 107, Pages 29-31, "After-Care in the Community" which are as follows:

98. More is required of the community than the provision of material help. While a person about to be discharged from a penal institution needs to have deficiencies in clothing made good and to be given immediate financial aid, these provisions are incidental to the main task. The prime purpose of after-care in the community is to offer the discharged prisoner the friendship, guidance and moral support that he needs if he is to surmount the difficulties that face him in the outside world. Those difficulties are often of a personal or domestic nature; they have sometimes contributed to his former delinquency and may impede his full and lasting social readjustment.

99. Some discharged persons need little or no help; for others after-care support during their first few weeks of freedom is sufficient. But many require skilled rehabilitative help for a long time, if a return to prison is to be prevented. In their report on "The After-Care and Supervision of Discharged Prisoners" the Advisory Council identified the categories of offenders most likely to be in special need of guidance and help on release and so to have first priority in any extension of compulsory after-care. The Council considered whether, since a particular offender's need for after-care seemed to spring from his character and circumstances rather than from his membership of a particular penal category, individual selection for compulsory after-care was practicable. They concluded that it was not, in the absence of satisfactory criteria by which to select individuals; but they recognised that, if research were able to show what factors in an offender's character and circumstances were relevant to the need for after-care, this would facilitate an objective approach to the problem of selection. (Report paragraphs 31-33.) The present system of dividing categories of offenders between compulsory or voluntary after-care, as the case may be, inevitably disregards individual needs. Some of those in the categories covered by voluntary after-care require skilled guidance and help no less than many who are subject to compulsory after-care.

100. We have already recorded our view (paragraph 19) that the same quality of guidance and help ought to be available to all discharged persons, whether they are released to compulsory or to voluntary after-care. The only distinction between the two forms of after-care should lie in the legal consequences of failure to respond. The discharged person under compulsory after-care is subject to revocation of licence and consequent recall if he fails to co-operate; voluntary after-care may be accepted or rejected at will. Our recommendations (see Chapter 4) for social care while in custody are designed to secure that such care will be applied according to individual need. We think that the future structure of after-care in the community ought also to ensure that after-care according to individual need will be available regardless of whether it is compulsory or voluntary. To achieve this common standard of after-care it is essential that responsibility for its organisation should be vested in a single service.

A separate after-care service?

101. We began by considering whether this service should be an *ad hoc* organisation specialising in after-care and employing its own social workers in

the community, as proposed by some of our witnesses. Its social workers would need qualities and skills similar to those of probation officers. A separate service would therefore compete for staff in the same depleted field of recruitment as does the probation service, with the handicap that a new and untried service might seem less attractive to potential applicants than the probation service. Moreover, the full-time officers of a comparatively small self-contained after-care service would necessarily be stationed for the most part in the larger centres of population where the bulk of the work lies. Discharged persons residing elsewhere would not have the ease of access to their after-care officer that they would to the local probation officer. We have already shown how similar considerations led those responsible for compulsory after-care to rely increasingly on the probation service for their casework.

102. Another objection to creating a separate after-care service is that this would tend to perpetuate the fragmentary approach to problems of delinquency. Many persons discharged to after-care have been, at an earlier stage, on probation or otherwise a concern of the probation service. The trend of penal policy today is towards closer integration of the various services concerned with the treatment of offenders. An example of this is to be seen in the recent amalgamation of the Prison Commission with the Home Office as provided for in the Criminal Justice Act, 1961. In introducing this measure in Parliament the Home Secretary referred to his concern with the reformatory aspects of prison treatment and their development in relation to other kinds of treatment. He expressed the hope that the Prison Commission might become a part of a wider organisation covering all Home Office responsibility for criminal justice and the treatment of offenders.

An enlarged probation and after-care service

103. There is clearly a strong case for concentrating in a single service social work in the community with delinquents, whether they are probationers or offenders released from correctional establishments. We agree with the view of the Morison Committee that "within the home and family environment, there is a broad band of social casework which probation officers can appropriately undertake because it is concerned with offenders and others who have come into the ambit of the courts. After-care comes in this category. The employment of probation officers as after-care agents may also, in many cases, provide a useful homogeneity in the approach to, and responsibility for, an offender at different stages in his career." (Paragraph 104.) This is one of the advantages that has resulted from the present use of probation officers to supervise the majority of those discharged to compulsory after-care. As the Advisory Council observed in their report on "The After-Care and Supervision of Discharged Prisoners", "the probation service combines, like no other organised body, the two essentials for effective after-care. It is composed of trained social workers . . . and it is so spread over the whole country that a discharged prisoner will seldom live more than a few miles from his supervisor, with the result that if a crisis occurs in his rehabilitation, help and advice are readily available." (Report paragraph 27.)

104. We have therefore concluded that after-care in the community, both compulsory and voluntary, should be undertaken by an expanded and reorganised probation and after-care service. We have reached this conclusion despite two factors that some witnesses suggested might impede the work of probation officers with discharged persons. The first was that some offenders resent after-care and do so the more if their after-care officer was formerly their probation officer, who perhaps, by reporting unfavourably to the court, contributed to the decision to impose a custodial sentence. We are not satisfied that this resentment is widespread. Moreover, one of the objects of our recommendations for care while in custody is to break down the tendency to resent after-care by inducing an understanding of its purpose. Where the offender returns to the care of a probation officer whom he has known earlier, much will depend on the relationship that was then established; and, in any case where there is real difficulty, we understand that arrangements can often be made for another officer to supervise.

105. The second, and more serious, criticism expressed to us was that after-care is, in practice, the "Cinderella" of the probation service. The Morison Committee in paragraph 106 concluded that "probation and case committees and, to a degree, probation officers themselves, tend to regard after-care work as extraneous to the normal functions of the probation officer, and, hence, to give it insufficient attention in considering staffing needs or to give other work priority over it at a time of pressure." We also received this impression. The assumption by the probation service on a large scale of responsibility for after-care would clearly require a new approach.

106. It follows that an expansion of the probation service in England and Wales to deal with after-care on the lines we have recommended must be accompanied by a reorganisation of that service. The probation service would in future extend beyond its hitherto accepted role of a social service of the courts. That part of its work concerned with after-care would be carried out, not upon the courts' directions, but as a continuation in the community of treatment begun in custody as a result of sentences imposed by the courts. We consider that it would be appropriate for these two primary functions of the service to be reflected in its title and we recommend, therefore, that it should become the "Probation and After-Care Service".

The scope of after-care work

Compulsory after-care

107. The after-care work undertaken by the probation service will in any event be greatly enlarged when compulsory after-care is extended to all the new categories of offenders prescribed in the Criminal Justice Act, 1961. It is expected that the probation and after-care service will then have to cope with something of the order of 6,000-7,000 discharged adults each year (comprising categories (c), (d) and (e) in paragraph 26 and categories (a), (b) and (c) in paragraph 27), as compared with about 600 at present (see paragraph 34). About 6,000-7,000 offenders under 21 may be expected in due course to be released

from detention centres to after-care by probation and after-care officers. Eventually, it seems likely that compulsory after-care (including approved school children) will account for about one quarter of the whole case-load of the probation and after-care service, against only one eighth of the present case-load. †

Growth of the Ontario Probation Service Since 1950

The Hon. Dana Porter, Q.C., Inquiry Into Some Aspects of Delinquency (1950)

While our Ontario Statutes provided for the appointment of provincial probation officers in 1922, we note that only fourteen provincial officers were appointed in the thirty-year interval from 1921 to 1951. 1950 is a key date in the development of our Ontario Probation Service because the Honourable Dana Porter, Q.C., at that time the Minister for the Department of Education, and Attorney-General, launched his "*Inquiry into Some Aspects of Juvenile Delinquency*". This was a thorough-going study into the existing Juvenile Court system as well as the facilities for treatment, education, detention and supervision of juvenile offenders. The report provides a significant reference point from which to gauge recent progress through to the present time, and many of its recommendations have been fulfilled or are in the process of being fulfilled. Recommendations which have been fulfilled are those pertaining to the establishment of a Probation Branch under the Department of the Attorney-General; a senior official as Director, and Regional Supervisors, also the development of research and training facilities for probation officers and the Branch. The scope and course of development of these functions has been somewhat different from the development which was envisaged by those persons who prepared this report, yet they would probably be quite amazed by the extent to which many of their proposals have now been implemented.

D. W. Coughlan, General Comments on the Field of Probation (1952)

Following this, and largely in relation to the above report, reference is made to some "General Comments on the Field of Probation, Ontario, 1952", made by the Director, D. Coughlan, approximately one year after he was appointed to the post. Some of the more relevant observations are now summarized in order that we might also observe the extent to which the proposals in this tentative plan have either been fulfilled or are well on the way toward fulfillment in most jurisdictions of the province.

† Omitting approved school children, compulsory after-care of persons released from penal institutions is likely to account for one fifth of the whole case-load, compared with one tenth at present.

Some Excerpts: General Comments on the Field of Probation, Ontario 1952.

1. It is strongly recommended that a system of probation service be instituted which would supply all the Courts in the Province with this beneficial adjunct to the administration of justice.

2. Now would be the opportune time to avoid the pitfalls of a dual system of probation by unifying the service for all courts in the Province. Such a move would also serve to mitigate the idea of 'separateness' which has become part of the Juvenile Court scene. The unified system also promises to be much more efficient and effective.

This could be achieved by appointing probation officers under one Act only, the Probation Act, in this manner giving them jurisdiction in every court in the area to which they are appointed.

3. Further, unless it is possible to supply qualified personnel for probation work and this is accepted as a prerequisite of the whole venture, failure will be the inevitable result with all the odium that attaches thereto, thus making it far more difficult to eventually launch a successful system.

4. A training scheme should be instituted whereby the prospective personnel could at least be given a minimum equipment with which to face their difficult task.

5. If the system is to be successful the necessity of supervision of probation staff is essential. This could be achieved by the introduction of Principal and Senior Probation Officers.

(a) A Principal Officer would be appointed in any area where there are at least six other officers employed. His duties would be to supervise the work of the other officers giving to them the benefit of his fuller knowledge and insuring professional growth and adequate standards at the local level. He would also be responsible to see that all the courts in that area were given adequate and uniform coverage.

(b) When there are 12 officers to be supervised a Senior Probation Officer would be appointed to assist the Principal Probation Officer.

6. Within the next decade, if the system proved successful, an adequate minimum coverage of the courts in the Province would necessitate 275 to 300 officers.

Implementation of Plan: Provincial-Municipal Developments

The earlier (1950) report had emphasized the need for promoting further development of probation facilities, and had encouraged the implementation of some co-operative arrangements between provincial and municipal authorities which would provide for establishment of both personnel and physical facilities necessary for the supervision of Juvenile and Adult cases throughout the province.

Accepting these terms of reference, the *first Director of Probation Services in Ontario, Mr. D. W. F. Coughlan, appointed in January, 1952*, undertook his assignment with enthusiasm. In countless numbers of public addresses throughout the province, his general theme was to outline the humane and monetary benefits of an expanded probation program, also, the fact that probation could reclaim a higher percentage of selected offenders than most other corrective methods. Finally, the vastly greater use of probation rather than prison sentences in Great Britain was contrasted with current practices in Canada. Responsible authorities were attacked for failing to use and develop probation facilities in Canada. Statutory provisions for the appointment of probation officers to serve in The Juvenile Courts had been in existence since 1908, but to what extent had they been implemented?

With regard to the provisions contained in sections 34 and 35 of the Act, we note that the Canada Gazette of the 26th September, 1908, contains an order in council which provides that, before the Act is put in force under section 35, the Governor in Council must be satisfied, 1. That a proper detention home has been established, and will be maintained, for the temporary confinement of juvenile delinquents, or of children charged with delinquency. The institution should be conducted more like a family home than like a penal institution, and must not be under the same roof as, or in the immediate vicinity of any police station, jail, lock-up or other place in which adults are or may be imprisoned; 2. That an Industrial School, as defined by clause (h) of section 2 of the Act, exists, to which juvenile delinquents may be committed; 3. That there is a Superior Court or County Court Judge or Justice, having jurisdiction in the city, town or other portion of a province in which it is sought to have the Act put in force, willing to act as Juvenile Court Judge, and that the remuneration of such Juvenile Court Judge (if any), has been provided for without recourse to the Federal authorities; 4. That remuneration for an adequate staff of probation officers has been provided by municipal grant, public subscription or otherwise; 5. That some society or committee is ready and willing to act as the Juvenile Court Committee.

However, with both initiative and financing left completely to the local level, it is readily understandable why the necessary expansion failed to take place.

The statutory authorities which the Director now used for expansion and development of Probation Services with the support of his Minister were the Juvenile Delinquents Act, as well as those existing provisions for cost-sharing in The Ontario Juvenile and Family Courts Act (1937), and as established in The Ontario Probation Act of 1922. Statutory provisions had existed in Ontario since 1922 for the appointment of provincially employed staff, but the provisions had only been implemented in four of the larger Ontario centres such as Toronto, Hamilton, Ottawa and London during the thirty-year period 1922

to 1952. Armed with these statutory references, and the support of his Minister and Deputy, the Director was charged with interpreting the substantial benefits which would accrue to both offenders, their families and the community at large if municipalities were prepared to establish the necessary physical facilities for the financing and hearing of juvenile cases so that the Juvenile Delinquents Act might be proclaimed. The proposal included the provision that the Province would undertake the responsibility to pay the salary of a probation officer and his secretarial staff, on condition that he could assume the combined responsibility for supervising both juvenile and adult probationers.

We earlier examined the content of certain debates in both the Dominion Parliament and the Legislative Assembly of Ontario, also the lack of any significant community response to the challenge to fully develop its juvenile and adult probation services during the thirty-year period (1922-52) following enactment of the Ontario Probation Act (1922), when initiative was left at the local level. In order that some of the significant local considerations affecting and contributing to the development of probation services following 1952 might be further amplified, we have selected in the following an example of the type of committee report which was prepared following negotiations for assistance. This study, in response to the provincial proposal, was submitted at county level to the Warden and County Council.

This effectively serves to illustrate the high significance attached to such matters as salaries, expenses and costs of accommodation, etc.

Juvenile and Family Court

REPORT NO. 1

OF THE SPECIAL COMMITTEE RE JUVENILE AND FAMILY COURT

To the Warden and Members of the Corporation of the
County of Simcoe, in Council assembled,

Your Special Committee re Juvenile and Family Court beg to report:

That for some time they have been negotiating with the Provincial Government with a view to getting them to pay a portion of the Juvenile and Family Court expenses. Since the June Session a delegation, appointed by your Committee, interviewed the Attorney-General and discussed this question with him.

The delegation were advised that it was the policy of the Department to co-ordinate Juvenile and Family Court and Adult Probation Work. It was suggested that if the County would co-operate in a policy of this kind, the Department would appoint the present officers as Adult Probation Officers under the Act and would pay their salaries and a portion of the office expenses.

The Department also promised that as soon as the caseload became sufficiently heavy to warrant it, another officer would be appointed for the County.

After discussing this matter with the Judge your Committee advised the Department that the County would accept this proposition, and requested that Messrs. Dingman and Taylor be appointed as Adult Probation Officers and that an additional officer be appointed with duties to commence January 1, 1954.

Your Committee have now received official confirmation of the appointment of Messrs. Dingman and Taylor as Adult Probation Officers, effective November 1, and a further confirmation that their secretaries will be appointed as Provincial employees as of December 1.

The appointment of a third officer is being negotiated for by Judge Foster.

The above arrangements will obviously mean a substantial saving to the County of Simcoe.

All of which is respectfully submitted,

Committee Room, Barrie
November 23, 1953

MONTCALM MAURICE,
Chairman.

REPORT NO. 2

OF THE SPECIAL COMMITTEE RE JUVENILE AND FAMILY COURT

To the Warden and Members of the Corporation of the
County of Simcoe, in Council assembled,

Your Special Committee re Juvenile and Family Court beg to report:

That with further reference to the agreement reached with the Attorney-General's Department regarding the appointment of Probation Officers for the County, which agreement was described in Report No. 1, your Committee estimate that the saving, based on the 1953 expenditures, will be:

Probation Officers' Salaries	\$ 7,500
Travelling expenses	1,900
Stenographers' salaries	2,400
Total.....	<u>\$11,800</u>

All of which is respectfully submitted,

Committee Room, Barrie
November 25, 1953

MONTCALM MAURICE,
Chairman

Action and initiative such as the above in negotiations between both the provincial and local county or municipal levels thus paved the way towards the extension of probation facilities, to Juvenile and Adult Courts throughout the

province. Provincial Probation Services, formerly operated under the Inspector of Legal Offices, obtaining the necessary funds for expansion and development from the Consolidated Revenue Fund from 1922 to 1957. Probation became an official Branch of the Attorney-General's Department with its own budget in 1957. By 1963, the Juvenile Delinquents Act of Canada had been proclaimed in every county and district of the province.

Provincial Probation Staff and Services Expand

During the period 1952 to 1956 the probation officer complement grew from 15 to a total of 94 officers. A Training Officer was appointed in 1954 in the person of Mr. A. H. Sumpter, whose many years of knowledge and experience as a probation officer in both great Britain and Canada were applied to the task of developing a training program for probation staff. His Training Notes (1959) and development of training course content during the period of 1954 to 1962, played an important part in introducing uniformity both in terms of procedures and quality in the various operations which must be carried out by probation staff. In 1957, G. McFarlane was appointed to Branch Headquarters as Executive Officer in the capacity of Assistant Director. Responsibilities have included assisting the Director in policy formulation and having direct charge of a number of areas of administration such as co-ordination of work for the National Parole Service and inter-provincial transfers, budgeting, research and report writing; some phases of the personnel and staff development program; field visits involving lectures, supervision of and consultation with Supervisors and field staff.

Ten Supervising Probation Officers* were appointed in 1957 to serve in strategic locations throughout the Province. This was a major decentralizing measure which moved a resource for administrative control, staff development, also case supervision and consultation close to the local operational level where it was needed. Their number has now grown to eighteen. Supervisors have played an important role in administration, staff development and public education in their respective areas. This structure remained unchanged from 1957 to 1962 when Senior Officers were introduced into the organization to serve fundamentally as "Assistant Supervisors". This classification has recently been

* Supervisors appointed in 1957 included — Q. Nighswander, R. Tear, J. Mildon, J. Twigg; also F. Dingman, R. Jolliffe, M. Egan, S. Main, who have left the Service, and F. Caunt and G. Van Loon (deceased). Supervisors added to date — E. Moore, W. Bunton, M. Marks, J. Cripps, R. Fox, D. Taylor, H. Slater, H. Fynn, W. Melenbacher, R. Cracknell, J. Spriggs, J. FitsRandolph, J. Gaskell, C. Outingdyke, G. McFarlane and A. Sumpter carried supervisory responsibilities for a period pending the appointment of full time Supervisors to their areas. W. Outerbridge was also a Supervisor prior to assuming his responsibilities as Staff Development Officer.

opened to officers of demonstrated competence and seniority who may be appointed on a merit basis and with reclassification upon assignment of "specialist functions". They will continue to be involved in direct service functions to clients rather than in an administrative capacity.

The staff complement and organization of Probation Branch Headquarters was further altered in 1962 with the introduction of a full time Staff Development Officer, W. R. Outerbridge, and the designation of Mr. A. Sumpter as Inspector of Probation Services. These moves, plus the recent additions of an Assistant Staff Development Officer, J. Eldon Andrews, and an Administrative Officer, A. R. Stannah, have intensified the emphasis upon the quality of both counselling services and on administration. This has also left the Assistant Director, Staff Development Officer, and Inspector freer from ongoing administrative responsibilities in Branch Headquarters in order to provide closer contact with field supervisors and officers for both staff development and administrative purposes. During the past three years the staff development program has been enriched by the introduction of course material for officers at different levels of seniority, competence and experience. Nineteen sixty-five saw the completion of a significant contribution to the Staff Development Program with the appearance of the Handbook for Probation Officers. It consists in a bringing together, amplification, and identification of the major functions, procedures and principles.

The appointment of Mr. W. Bateman to Branch Headquarters in 1964 as Consultant on Alcoholic Case Work, was a further move toward providing special services to field offices in relation to a particular problem area. (With this move it might be said that the wheel of probation seems to have come full circle since historically we know that John Augustus began and demonstrated his approach to the offender by concentrating on the problems and needs of this particular group before extending his services to other types of offenders.)

Reference should be made to the exceptional growth in the Provincial Probation Officer Staff during the 13-year interval 1952-1965 when our complement increased from 14 to a total of 192 officers, supervisory and administrative staff. The budget for the Ontario Provincial Probation program grew from \$74,505 in 1952 to \$1,719,429 for 1964-65.

In 1964 the minimum educational requirement for a candidate for the position of Probation Officer was established at the B.A. level. While fifty per cent. of Ontario probation officers have either B.A. or other university degree, normally in the social sciences, officers have come from a variety of orientations, and disciplines, such as social work, clergy, police, career military officers, teachers, lawyers and other related business, administrative or health and welfare backgrounds.

Promotional Examinations: Evaluations

Probation officers are required to write a set of Promotion Examinations in order to pass into the Group II salary range. Papers are written in the following general areas: Law, Administration, and Social Work. In order to assist officers in preparing for their examinations a uniform syllabus has been worked out by the combined efforts of supervisors and Branch Headquarters staff and in consultation with authorities at the University of Toronto and Osgoode Hall Law School.

Since 1957 a system comprising the use of study syllabi and examinations also supervisory visits, conferences and evaluations has been developed to provide a basis for selection, staff development, and promotion to permanent and senior positions and to substantiate annual pay increments.

University Courses

The Attorney-General's Department has granted a period of sponsored academic leave to two officers per year over a period of several years now for the purpose of pursuing a post-graduate degree. For the past year, in co-operation with the National Welfare Grants Program of the Dominion Government, it was possible to sponsor their attendance on full salary.

Association of Probation Officers

This organization has been another important medium for the promotion of standards and for staff development ever since probation officers formed their Association in 1951. The Association through its regional and annual meetings has been effective in developing leadership qualities in its members, and has been of assistance in providing the Director and the Department with the views and suggestions of probation officers on matters such as the following:

- (a) The promotion of standards of probation service.
- (b) The submission of suggestions regarding legislation and policies.
- (c) Other matters related to the professional interests and development of probation officers.

Contribution of Probation Staff

It should be noted that credit is due at the local level more than at any other level through the work of probation officers and with the assistance of their secretaries for the on-going task of effectively interpreting and demonstrating the value of Probation Services. It is largely through the effective efforts of the probation officers that the Courts come to accept the value of pre-sentence reports in the sentencing process and both courts and the local communities come to recognize the positive results to be accrued through the system of Probation. It is at this level of officer and probationer that the real and ultimate value of Probation is tested and proven.

3 *Milestones and Crossroads*

Milestones: Some Government Reports Affecting the Development of Probation

A wealth of material is contained in several government reports which have been assembled over the years. Here we find from either the federal or provincial levels an authoritative assessment of current needs, also criteria and proposals to be further considered and possibly put into operation to the end that the corrections system (including probation) might function at the optimum level of effectiveness and efficiency. A selection of such reports from both the federal and provincial levels of governments is cited. Undoubtedly others could be added. However, with respect to probation, there is a striking absence of evidence: (1) to fully perceive and consider its humanitarian and economic implications and (2) to fully pursue the possibilities for and benefits to be accrued from joint Federal-Provincial effort and action.

- A. 1935 — *“Report of Committee Appointed to Investigate Present Juvenile Reformatory School System of Ontario”*

This was convened by the Honourable David A. Croll, Minister of Welfare and Municipal Affairs. It contains a study of the Reformatory System and considers as well the system of Juvenile Courts and Juvenile and Adult Probation Services.

- B. 1938 — *“Report of the Royal Commission to Investigate the Penal System of Canada”: “Archambault Report”*

Chairman: The Honourable Mr. Justice Joseph Archambault

- C. 1950 — *“Report on the Inquiry Into Some Aspects of Juvenile Delinquency”*

The Honourable Dana Porter, Q.C., Minister, Department of Education and Attorney-General. (This report has been previously mentioned.)

- D. 1954 — *“Select Committee to Study and Report upon Problems of Individuals and Custodial Questions and the Place of Reform Institutions Therein”*

Mr. W. J. Stewart, C.B.E., Chairman Presiding.

Like the above, this report contained many useful observations relative to the administration and development of probation and adjunct services for the courts and corrections agencies.

- E. 1956 — "*Report of the Committee Appointed to Inquire Into the Principles and Procedures Followed in the Remission Services of the Department of Justice of Canada*": "*Fauteux Report*"
Chairman: The Honourable Mr. Justice Gerald Fauteux.
- F. 1965 — "*Report of the Department of Justice Committee on Juvenile Delinquency*" *Juvenile Delinquency in Canada*:
Published by authority of The Honourable Lucien Cardin, Minister of Justice and Attorney-General of Canada.

The Archambault Report (1938)

The "Archambault Report" made some very significant recommendations relevant to the development of a National Probation System. The members of the Commission apparently saw no constitutional obstacles which would prevent the development of both the necessary financial agreements and legislative provisions at a national level, and which would thereby provide for equitable development of these essential services throughout Canada under the aegis of the Dominion Government. *Recommendations relating to Adult Probation* are found on Page 360 — 70 to 74 — as follows:

70. "A probation system modelled upon the system now in force in England should be adopted throughout Canada for both adults and young offenders."
72. "The services of such Officers should be made available for the preparation of case histories of convicted prisoners, and to furnish reports to the presiding Judge or Magistrate before the accused is sentenced."
73. "Probation Officers should be given supervision of prisoners released on ticket-of-leave, and should make the necessary investigations of persons with whom prisoners wish to communicate."
74. "The pay and duties of Probation Officers should be the subject of an agreement between Provincial and Federal authorities."

Fauteux Report (1956)

Summary of the Primary Goals for an Adequate Corrections System as Presented by the Fauteux Report

"Our inquiries have led us to conclude that a number of goals must be achieved before it can be said that Canada has an adequate system of corrections. We have observed that these goals have been achieved, to a substantial

extent, by other countries whose systems we have studied. In those countries it is undoubtedly the case that many good features are indigenous to the local custom and national character and would not be suitable for Canada. There are other features which, however, impressed us as being based on sound principles that are applicable to any country, including Canada.

Some of these features are:

- (a) a high degree of integration between all parts of the correctional system;
- (b) a well developed and extensive system of adult probation;
- (c) a concentration of effort on treatment by way of training, rather than the mere imposition of punishment; this is especially so in the case of special classes of offenders, particularly youthful offenders and persistent offenders;
- (d) specialization of institutions and specialization of methods of treatment, with a concentration of professional staff in the areas where it is most needed;
- (e) the development of small, open, minimum security institutions;
- (f) a planned policy of recruitment and training of professional staff; and
- (g) a willingness to make full-scale experiments in all phases of the correctional system.

Summary of the Fauteux Report Recommendations Affecting Probation

- 1. A serious effort should be made by all governments concerned, whether federal, provincial or municipal, to acquaint the public with the purpose of a sound system of corrections and the benefits to be derived from it.
- 2. Some means should be found whereby the courts, at all levels, may be made more conscious that the true purpose of punishment is the *correction* of the offender and not mere retribution by society.
- 3. Each of the provinces should establish full-scale systems of adult probation.
- 4. The Parliament of Canada should give serious consideration to —
 - (a) the abolition of a number of the restrictions on the power of courts to suspend the passing of sentence; and
 - (b) the enactment of legislation to authorize probation without conviction.
- 7. In passing sentences the courts should rely, to a much greater extent than they now do, upon pre-sentence reports.
- 13. In any case where a convicted person is between the ages of 16 and 21 or where a maximum term of imprisonment of two years or more may be imposed, no offender should be sentenced to any term of imprisonment without consultation by the court of a pre-sentence report.
- 14. No sentence involving corporal punishment should be imposed upon any offender without prior consideration of a pre-sentence report concerning the physical and mental condition of the offender."

Regrettably the "Fauteux Report", unlike its forerunner, regarded the division of constitutional authority between the Federal and Provincial Governments as the major obstacle preventing development of probation from the national level.

"As we have pointed out previously, a probation officer is an officer of the court. Under the British North America Act the exclusive authority to make laws in relation to the constitution, maintenance and organization of provincial courts, including those of criminal jurisdiction, lies with the provincial legislatures. It follows, therefore, that the administrative responsibility for increasing probation services in Canada rests with the provincial governments."

Notwithstanding, the Dominion Parliament some years ago decided that it could legislate upon probation. In the opinion of a number of authorities including the present Director, remedies are available whereby the Dominion Parliament could have a direct and much greater say in the development and extension of probation throughout Canada, provided leadership and financial support are extended from this level.

"Juvenile Delinquency In Canada" (1965)

We find further support for this position in the 1965 Department of Justice Report "Juvenile Delinquency in Canada", Ch. III. Although its focus is on the delinquent, rather than the adult offender, it recognizes that if the development of probation is to occur in a consistent and equitable manner throughout Canada, leadership and financial agreements between both the Dominion and Provincial levels are indicated.

"Juvenile delinquency is one of the most distressing and therefore one of the most important social problems of our time. It affects gravely the children who are found to be delinquent, their families and the state which in the end bears the cost. A problem of this gravity requires the sincere and active cooperation of all levels of government, whether federal, provincial or municipal. Sincere and active cooperation will inevitably involve the expenditure of money . . .

"Perhaps the very first question to be resolved is whether the national government has a role to play in relation to juvenile delinquency. For example, if the idea that delinquency is a welfare problem is carried to its logical conclusion, Parliament would lack constitutional power to enter the field. But it seems to us that delinquency, properly understood, is a welfare problem in the sense that adult crime is. The national government would be abdicating its constitutional responsibility if it permitted delinquency to be defined and dealt with exclusively by the individual provinces under child welfare legislation. Such an abdication might very well be lawful as a matter of constitutional law. For example, Parliament might declare certain conduct criminal only if committed by persons over

a defined age, thus allowing the provinces to legislate from a 'non-criminal' aspect in relation to persons under that age. However, this would result in the loss of value of a national approach. It is reasonably to be expected that in the Canada of today, with its tremendous internal migration, the effect of multifarious delinquency legislation and programs would be to produce a kind of social chaos, at least in the juvenile field, throughout the country. Whatever may be the constitutional position, a fifteen-year-old boy who kills or steals is considered by the community to be a wrongdoer. Seemingly one of the reasons for the allocation of the criminal law power to Parliament was to insure approximate uniformity of legal sanctions against conduct that was uniformly prohibited. The benefits of this uniformity — evident to anyone who is familiar with other systems — would be lost if delinquency were to be considered a matter of provincial jurisdiction."

Crossroads in Probation

Some of the above reports along with our review of significant changes and trends in probation and related legislation and growth in the organization of Probation Services, represent significant landmarks affecting the development of probation in Ontario. However, study of the criteria and proposals contained in these reports, and the current statistics, reveals that there are still a number of areas where probation remains at the crossroads. Some of these areas are as follows:

Development of a National Probation System:

While Ontario has in recent years seen its Probation Services expanded to the point where Probation Officers are now to be found serving both the Juvenile and Adult Criminal Courts in every County and District of this province, this does not apply in every province. In other words, persons appearing before Courts in which there are no probation services are not likely to have the benefit of a pre-sentence report whereby the Court may be assisted in sentencing, nor will they be likely to receive the disposition of probation since official services for probation supervision are missing. This simply means that justice will not be meted out in an equitable manner. It also means that an offender may not be transferred to such a jurisdiction to carry out the period of his probation since there is no Probation Officer to whom the case might be transferred.

It is observed that the major period of growth in the Ontario Provincial Probation Services began only when legislation was introduced to make probation salaries and costs of accommodation, etc., a matter of agreement between the province and the municipalities. Subsequently we saw that implementation of this legislation required leadership at both the provincial and municipal levels. Many provinces, and consequently counties, districts and municipalities within their jurisdictions, would probably be hard pressed from a financial

standpoint to develop facilities similar to those which are found in Ontario. Should it not follow that both legislation, leadership and financial support, be provided at a national level to the end that these essential services might be extended to every jurisdiction in Canada?

Development of Adjunct Services for the Courts and Probation Services

Ontario has also seen the development of additional services in certain jurisdictions which have without doubt demonstrated their value and use to the Courts, Probation Services, and the community.

(a) The Forensic Clinic of Toronto has received the majority of its referrals either directly from the Courts or through Probation staff. Offenders may be remanded for a clinical assessment, or they may be required to report to the Clinic for outpatient treatment as one of the terms of their recognizance. In some instances clinical assessments are made available by classification centres of the Department of Reform Institutions or in-patient clinics of the Department of Health.

(b) Probation Hostels or Halfway Houses: The Salvation Army House of Concord has now been in operation for some seven years. It has developed to the point where it not only offers a residence for selected offenders, it also provides a training program for its residents. The Halfway House concept which is presently receiving wide attention in the field of corrections can hardly be regarded as a new concept. It is noted that John Augustus, the first probation officer, operated a type of halfway house from his own home. Later he encouraged the development of such a home for female offenders in the year 1848. Thus, while demonstrating the value of probation supervision of offenders who were able to continue in their own homes, he also demonstrated the importance of providing a residence for selected offenders who should be removed from undesirable surroundings in order to further the rehabilitation objective.

Mr. Augustus describes one of his first experiences in arranging foster home care as follows:

"... she was afraid to go home; her father had just been discharged from the House of Correction, and was going to beat her for having testified against him in the Police Court at the time he was sentenced for drunkenness, although she was compelled to do so, by the requirements of the court. This girl found a home in my family for several weeks. Her father is now a reformed man and holds a responsible office in this state; she is married to a very respectable business man of this city. That year I provided temporary homes for eighty-two women and girls; and here I felt the importance of having an institution where such persons could find a home for short periods of time. This year, besides the number above mentioned, I bailed fifty-one in court, thus making one hundred and thirty-three females who received my aid in various ways, all of which I

accomplished with satisfaction to myself, in spite of the opposition at the Police Court, which was as great as ever. That year, I bailed one hundred and thirty-five persons.

In 1848, my attention was demanded in almost every direction. I received numerous applications to provide temporary homes for unfortunate and indigent females, who were without shelter; there was no home or asylum to which they might be conducted, and the alternative was to obtain board for them in private families, which, even at moderate rates, amounted to a large bill of expense, although they boarded only for brief periods of time. I made my condition known to some twenty-five philanthropic persons, and explained freely to them the embarrassments under which I labored, and they cheerfully agreed to contribute various sums for the establishment of a Home, where deserving and worthy females might board, as long as the exigencies of their cases might demand.

During the year I was enabled to find suitable places for, and to return to their friends, one hundred and forty-eight, who applied to me personally, or through their friends. I bailed twenty-nine females at the Police Court that year, which was a greater number than bailed any preceding year; in the Municipal Court I bailed twenty-eight more, making the whole number *two hundred and five* females, who received my aid, time and attention, during the year, which is an average of *four* per week for the whole time. Almost all the cases in which I stood as surety were settled without being brought to trial; and pleas of guilt being put in, a door was opened for the mercy of the court, which was frequently applied and with most salutary effect, but in some cases the parties continued to pursue their former sinful career, and the justice of the law was measured to them according to the nature of their offences.

I invariably reported to the court a true statement of the case, to the best of my knowledge, which was the result of personal observation, and requested the court to dispose of them in a manner in which I should have done had I held the office of a judge, but, of course, the opinion of the court was, in many cases, different from my own.

This year I accomplished a greater amount of labor in bailing persons than during any other single year since beginning my labors in the courts; besides the number of females for whom I assumed such responsibilities, I bailed eighty-eight men and boys, in both courts, and all cases were disposed of without any forfeiture of bail."¹²

In Ontario the value of foster homes for juvenile delinquents was emphasized as long ago as 1893 with passage of its first Children's Protection legislation, which provided for the removal of neglected and delinquent children from undesirable home situations and placement by the Children's Aid Societies in foster homes.

Over the years, with the growth of official probation services, the natural

¹² John Augustus First Probation Officer, National Probation Association, 50 West Fiftieth St., New York, 1939, Pages 36 and 37.

division of labour between Children's Aid Societies and Probation Services appears to have lessened access to certain resources previously available to both delinquent and neglected children. Foster homes have come to be used predominantly for neglected children, and it has been increasingly difficult to provide similar accommodation for delinquent children. Many would argue that the dividing line between neglected and delinquent children, and the factors underlying these conditions, are so similar that the establishment of diverse types of foster and group homes, probation hostels, halfway houses, should continue to be a matter of common concern to the Children's Aid Societies and Probation Services alike. Moreover, is it not demonstrable that such facilities ought to be available in a program of rehabilitation both prior to and following institutional care, particularly where contributing home and community conditions have not responded or been amenable to efforts to bring about their removal or change?

Research: A Major Concern in the Field

In the area of selection we might ask, "What offenders are deemed to be most suitable for probation?" In determining this, are we to rely solely on the statistics of success and failure during the period of probation or even during a five-year follow-up period?

Undoubtedly there is need for a continuing program of research involving demonstration projects and evaluative research into the results of probation and into the comparable effectiveness of various measures for the treatment of different classes of offenders. Is there not also a continuous need to study and to develop further criminological classifications or typologies which in some cases may lead to more realistic refinements in our legal definitions of offences, or at least to further differentiation of classifications within the present concepts and definitions?

Such classifications can be evolved and such questions ought to be tackled through an established program of research. However, we would note that there already exists a great accumulation of pragmatic knowledge to support the value of many of our existing programs and facilities. Have we yet put into operation administrative and treatment measures which we already know from the standpoint of human values, experience and results to be both humanitarian and at the same time useful and effective? Research is needed, but we must take care not to use this as an excuse for inaction. The further expansion of probation, forensic clinic facilities, and a necessary variety of foster homes, probation attendance centre, hostel and halfway house facilities for community-centred treatment for various types of offenders, is indicated on the basis of our existing knowledge and the demonstrated value of these facilities.

The development and maintenance of a modern and effective program of correction and rehabilitation might be compared with the planning, building and traffic control problems of a superhighway. There is a similar need for study, research and planning for access and departure routes, service roads and facilities. Finally, if development is to continue and traffic to proceed with safety, efficiency and effectiveness in a common direction, the need to overcome impasses and other recurring obstacles presents a parallel challenge. The question presented by the history of this particular type of program is whether society is prepared to accept the challenge to study and decisively take the necessary steps to overcome both the real and apparent impasses or obstacles which are bound to occur or to remain indecisively at the crossroads . . . possibly to be overcome by the problem.

4 *Consolidating and Strengthening Probation*

Perspective

We have reviewed some landmarks in the development of probation services in Ontario. From the passage of our earliest probation legislation, we can see how it required practically sixty years to develop to this present stage. It is hoped that this review will provide an indication of some of the significant factors affecting the development of probation in this province: a stage and backdrop; a program containing some of the background and dialogue, and some scenes from a production still in process to reveal the particular role of a few of the key figures and factors involved in this development. There is a significant and unique story to be told in relation to the development of probation in each and every jurisdiction of the province. It would be impossible we know, in this reference, to deal justly and individually with the specific contribution of each of the many persons and groups contributing to the total growth of these services. Countless numbers of persons and organizations have played an important part.

We note for example that great credit is due to those persons who first advocated the establishment of probation at the local level. Through their efforts the idea and situation was cultivated, and the seed for probation was furrowed and planted. Through the initiative of judges and services of their probation officers, its value was demonstrated in a few selected and generally more densely populated and affluent locations. It did not proceed toward full expansion in other jurisdictions until finally we found the necessary combination of social concern, climate of political interest and provisions for financial agreement and leadership at both the provincial and municipal levels. Local areas were at first unfamiliar with the probation concept, and then either did not know how to go about the business of establishing these services, or were unaware of the full benefits to be accrued from its development. Undoubtedly, many jurisdictions deemed the services to be too costly even with financial support from the provincial level.

We note that both legislative and administrative provisions had existed in the Statute Books of Ontario for appointment of provincial probation officers from the year 1922. During the next thirty years, 1922 to 1952, only 4 of the 48 judicial jurisdictions of the province had availed themselves of these pro-

visions, and only fourteen provincial probation officers had been appointed.

While delays in expansion following 1922 might be partially attributable to the problems of financing which were to be a matter of agreement between the province and the municipality (with the former paying for salaries and the latter for accommodation), the lack of leadership and public education on a province-wide scale appear to be the key factors delaying expansion in this interval.

Then, we observe, the Honourable Dana Porter, Q.C. (now Chief Justice of Ontario), launched his "Report on the Inquiry into Some Aspects of Juvenile Delinquency" in February, 1950. Its recommendations, along with the subsequent observations of the Director, 1952, are reported at some length because of their particular impact upon the subsequent development of Provincial Probation Services in Ontario.

This task of public education and organization on a province-wide scale was undertaken by the Director beginning in 1952 with the result that we now find a twelve-fold expansion in Provincial Probation Services as of 1965.

The Purpose and Program of The Ontario Probation Service in 1965

The Rt. Hon. Mr. Justice Birkett, in his Clarke Hall Lecture, *Criminal Justice: Problems of Punishment*, states:

"It has taken a very long time for society to realize, in its criminal justice, that individuals vary infinitely, and that it is worse than useless merely to apply a tariff system of punishments apportioned to the crime, and that the first and supreme consideration is to know the nature and character of the offender in the light of modern knowledge, before it is possible to deal with him not only in his own interest, but in the interest of the community."¹³

We have seen that probation is one of the helping professions which, in the past fourteen years, Ontario has seen fit to expand at a remarkable rate, and many of the beneficial results which have accrued to the public and to those persons who have been assisted through Probation Services have been amply demonstrated.

Emphasis upon rehabilitation of the individual has placed a premium upon the subject matter of pre-sentence reports as well as the quality of skills and services required in supervising probationers. This approach to crime and treatment recognizes that treatment of crime can no longer be isolated and applied according to the tariff system, which endeavours to "make the punish-

¹³ Birkett, The Rt. Hon. Mr. Justice, "Criminal Justice: Problems of Punishment", The Clarke Hall Fellowship, Tavistock House South, Tavistock Square, W.C.1, May 1948, p. 17

ment fit the crime". It is related in the closest way to a number of factors such as motivational, social and cultural conditions, to disease both of the body and the mind, to biological and heredity factors and to economic and environmental factors . . . to conditions of life in infancy, in childhood, in youth, and in adult life.

The purpose of a probation program is to "protect", "habilitate" and "re-habilitate" . . . values which are implicit in the term "supervise" as it is used in probation. The object within the prescribed limits of the law and the court is to help those persons who come under its care to reclaim and maintain their status as productive and socially responsible citizens.

Development and Maintenance of Standards of Selection, Training and Supervision

Who would contemplate the use of seed from a storage bin without first giving due consideration and attention to the conditions necessary for it to flourish and fulfill its purposes? Similarly the mere provision of physical facilities for probation or the appointment of a probation officer to a particular geographical location does not necessarily mean that these services will continue to operate at optimum effectiveness. Continued effectiveness depends upon a variety of conditions such as training, selection of suitable candidates, working conditions and relationships, the size and composition of caseloads, and the existence and development of adjunct services. The existence of community-centred facilities such as probation hostels or half-way houses, attendance centres, and clinical services undoubtedly extends probation to a wider range of offenders than would otherwise benefit from these services in the community. A probation officer who is forced to carry an excessive caseload cannot provide "a probation service" to his clients and the community. He is forced to provide merely limited "surveillance" functions. Under these circumstances, probation as we understand it would surely fall into disrepute. Involvement of meaningful contacts in the family unit and in the community is stressed in the supervision, helping and counselling work of probation officers with juvenile, adult and family cases. In working with juvenile and adult probationers officers are careful to enforce the Court's conditions. Moreover, by sensitive and skillful application of casework skills with individuals in their family and community situations, they are at the same time encouraging both short term and ultimately long term constructive and more responsible planning and behaviour in their charges. The direction and emphasis in all probation counselling is towards the fostering and development of a more acceptable self and social knowledge and fulfillment of the person under care. A primary object is the restoration of individual dignity and responsibility by

encouraging constructive development and use of talents, knowledge, skills and the resources of the community.

In 1965 the total number of persons under the supervision of provincial probation officers was 16,016 (see Appendix) and the services of probation are available to every county and district of the province.

Ontario probation studies on the results of probation over a five-year period have consistently shown that about 70–80% of all persons placed on probation complete their probation periods successfully. A preliminary three-year follow-up survey has just been completed by the Ontario Probation Officers Association (1966) on *The Results of Adult Probation*.¹⁴ Selection and follow-up of cases from nine different rural and urban areas in Ontario revealed the following:

“There were 422 men and 44 women for a total of 466 probationers involved in the survey. Of these, 68.3% were successful. Women proved to be the more successful with 90.9% as compared to 65.9% of the men. The success rates by area ranged from 58% to 85%. Seven of the areas were bunched fairly close to the average, varying from 63% to 75%. There was one area at the extreme low of 58% and one area at the extreme high of 85%. It is also interesting to note that the more concentrated the population, the lower was the success rate: the large urban centre with 63.3%, the medium centre with 67%, the small centre with 71.5% and the North with 75.5%.

Studies in Great Britain compare with these figures. In a study carried out by the Cambridge Department of Criminal Science in 1958¹⁵ involving follow-up of 3,636 adult offenders whose probation orders were brought to a satisfactory conclusion, it was shown that after three years of freedom, 3,185 or 88% were not found guilty of a further offence.

What of the Future?

The following areas would appear to require priority if probation standards and services are to be maintained and improved.

1. Development of a National Probation System

This concept appears to have been envisaged by the Royal Commission to Investigate the Penal System (The Archambault Report, 1938).¹⁶ Leadership

¹⁴ Ontario Probation Officers Association, “*Examination of the Results of Adult Probation*” Jan. 1966, pg. 3 (Unpublished: quoted with permission)

¹⁵ L. Radzinowicz, LL.D., “*The Results of Probation*”, a report of the Cambridge Dept. of Criminal Science — London, Macmillan & Co., N.Y., St. Martin’s Press, 1958, pg. 28.

¹⁶ “*Report of the Royal Commission to Investigate Penal System of Canada*”: The Archambault Report. Chairman: The Honourable Mr. Justice Joseph Archambault, 1938.

and support from the national level are indicated if probation services are to be made available throughout Canada on an equitable basis. The pertinent section of the Archambault Report is as follows:

(Section 74 — "The pay and duties of Probation Officers should be the subject of an agreement between Provincial and Federal authorities.")

Senior personnel in the Probation Branch and a committee of the Probation Officers' Association of Ontario have given considerable thought and attention to this area over a number of years.

This Branch already assumes responsibility for over 200 parolees at any one time, and co-operates in supplying numerous pre-release reports and copies of pre-sentence reports for the National Parole Board.

If, according to the Archambault Report, staffing was to become a matter of agreement between the provincial and the federal authorities, this work would expand, as would the probation services in general.

2. Extension of Clinical Facilities

Forensic in-patient and out-patient services are available in Toronto. In a number of other centres, the assistance of mental health clinics is sometimes available, or where there is an Ontario Hospital in the area, their facilities may be available for assessment and consultation.

Reports from clinics of the Department of Health and those of other mental health clinics where available, have proven to be of inestimable value for pre-sentence purposes and in probation planning and supervision following the subject's release. In-patient and out-patient facilities for such assessments ought to be readily available to the Juvenile and Adult Criminal Courts.

3. Probation Hostels

Beverley Lodge of the Anglican Church and the Salvation Army's House of Concord have pioneered in this area. There is an established need for more probation hostels for both juvenile and adult offenders.

The Probation Services Branch has undertaken a survey on "*The Need for Half-Way House Facilities for Juvenile and Adult Probationers in Ontario* (1963). Based on the experience and models provided by Beverley Lodge and the House of Concord, and allowing for an optimum complement of 10 probationers at any one time or 20 per year for an average stay of 6 months, the conclusion was that we could use one such facility for juveniles, and one for adults, for every 100,000 population.

A further Branch survey, *Emotionally Handicapped Children on Probation* (1965) reveals that the pressing need for this group of probationers is for

residential facilities such as Boys' or Children's Village and special group or foster home facilities.

4. Research and Demonstration Projects:

Research continues to be a major concern in this field, and facilities ought to be available for continuous study and experimentation in evaluation of processes.

A number of studies have been undertaken by the Probation Services Branch and the Probation Officers' Association of Ontario. The courts, police and probation services are presently co-operating with the University of Toronto's Centre of Criminology in an extensive study on sentencing. Other projects under-way include co-operation in an experiment designed to demonstrate and assess the use of volunteers in a probation program; a camping project for a small group of youthful offenders; demonstration projects to evaluate the use of group counselling. The use of selected and different techniques and resources in given cases is regarded as an area for continuous study and evaluation. For example, further testing is indicated re the great variety of individual methods versus or in combination with group methods, such as attendance centres, hostels or training schools, continues to be an area for further experimentation and research.

5. Probation Standards must be defined and maintained in the following areas:

Selection, Training and Retention:

- (a) Standards for selection and promotion to senior positions according to a merit system.
- (b) Opportunities for continued training and development.
- (c) "Working Conditions" which are comparable and "Salaries" which are competitive with those of other agencies requiring staff possessing similar qualifications, maturity, experience and skills.

Standards of Service:

- (a) A code of professional conduct ought to be developed.
- (b) Included in this would be identification of the probation ideal, its major aims, and objectives and amplification of principles and concepts underlying its procedures and processes.
- (c) Workload standards must be identified and maintained at a level which will enable the officer to function at the optimum level of effectiveness.
- (d) Stabilization and control of both court and probation workloads would be essential to the end that the Bench in its role of selecting probation

candidates is in a position to do so with proper care and with assurance of the availability of adequate probation facilities.¹⁷

Senior personnel in the Probation Services Branch and recently a study committee of the Ontario Probation Officers' Association have been working towards the development of a code of ethics and professional conduct for probation officers.

Studies by Branch Headquarters on probation officers' use of time¹⁸ as well as the supporting data of the Probation Officers' Association work load formula¹⁹ have reflected and supported the need to give much greater allowance to the time in which our officers have been engaged in preparing pre-sentence reports and social histories.

Accordingly the National Council on Crime and Delinquency (N.C.C.D.) criterion which allows for 1 unit per case and 5 units per investigation²⁰ was adopted for reference purposes in the current "Annual Comparative Statistical Report" which is found in the Appendix. The N.C.C.D. suggested 50 units as the maximum effective workload, but in accordance with the British Home Office Report on Probation (1962),²¹ we have suggested because of geographical and other considerations that the effective workload for any given

¹⁷ For further references on Sentencing see:

(a) Advisory Council of Judges of the National Probation and Parole Association, 1790 Broadway, N.Y. 19, 1957.

(b) *Guides for Juvenile Court Judges*. Advisory Council of Judges of the National Probation and Parole Association in co-operation with the National Council of Juvenile Court Judges, National Probation & Parole Association, 1790 Broadway, N.Y. 19, 1957.

(c) Model Sentencing Act. Advisory Council of Judges of the National Council on Crime and Delinquency, National Council on Crime and Delinquency, 44 East 23 St., New York, 1963.

(d) *The Ontario Magistrates' Association Report of Committee on Sentencing*, 1962 Niagara Falls, Ont. May 25th, 1962.

(e) Jaffary, S. K., *Sentencing of Adults in Canada*, Univ. of Toronto Press, 1963.

¹⁸ McFarlane, G. "Five Year Study on the Performance of Probation Officers According to Education and Orientation", Canadian Journal of Corrections, 55 Parkdale Ave., Ottawa, Ont., Vol. 6, No. 3, July, 1964, p. 359.

¹⁹ Marks, V. M. "Report of a Committee of the Probation Officers Association (Ontario) on Quantitative and Qualitative Aspects of the Probation Work in Ontario." The Canadian Journal of Corrections, Canadian Corrections Association, 55 Parkdale Ave., Ottawa 3, Ont., Vol. 6, No. 3, July, 1964, p. 346.

²⁰ National Council on Crime and Delinquency, U.S.A. — Professional Council, Committee on Standards for Adult Probation, "Standards and Guides for Adult Probation", National Council on Crime and Delinquency, 44 East 23 St., New York 10, N.Y., 1962, p. 57.

²¹ Home Office and Scottish Home Department, "Report of the Departmental Committee on the Probation Service", London, Her Majesty's Stationery Office, March, 1962, p. 103.

area would finally have to be qualified by the Area Supervisor's own assessment and evaluative reports.

6. A need is recognized for further refinements in our legal definitions of offences to the end that offenders may be identified and dealt with in accordance with current psycho-social and medical as well as legal knowledge of such offenders, their problems and amenability to treatment and controls. For example, concepts and their sub-classes such as "social deviant", "sexual deviant", "emotionally handicapped" might be recognized as appropriate and clearly applicable to the statutory offences of certain juvenile and adult offenders so as to stress their identification not only in terms of the offence, but

- (a) as persons having human strengths and weaknesses, needs, values, forms of expression and capacities for change;
- (b) who by breaking society's laws have reflected certain socially unacceptable and distorted values, forms of expression and satisfaction and;
- (c) which in turn requires a basic concern for them as persons and for both their immediate and ultimate place in society. Expression of this concern will be reflected in the development and application of specialized knowledge understanding study and treatment to the end that such behaviour may be corrected and controlled.²²

7. Opportunities must be sought and created for public education, also for dialogue and action on the part of various authorities, disciplines and agencies which are and ought to be concerned with the treatment of offenders, and the entire field of corrections, and its aims and objectives, to the end that "new ground" may be broken in the process of extending corrective knowledge, skills and resources. However, these chapters should serve to illustrate that in many instances the authorities concerned will frequently find that they are really addressing themselves to the necessary task of working and reworking, vitalizing and revitalizing "very old ground" indeed.

The Ontario Probation Service is anxious to carry out its obligations to the Government, the Judiciary and the public who have placed their faith in probation as a civilized and humanitarian approach in dealing with the offender and a necessary "first step" in any progressive program of correction. It has endeavoured to maintain a high level of effectiveness through a variety of media already described in the preceding chapters, and will continue to seek the necessary ways and means for continued improvement.

²² J. W. Mohr, Terminology and Nosology, A Central Problem in Research of Criminal Phenomena, Canadian Journal of Corrections Vol. 5, No. 4, Canadian Corrections Association, 55 Parkdale Ave., Ottawa, Ont.

PROCLAMATION OF THE JUVENILE DELINQUENTS ACT (CANADA)
IN ONTARIO JURISDICTIONS

(Counties, Districts, Towns and Villages of Ontario) 1909-1963

- 1909 Ottawa City
- 1911 Toronto City
- 1914 Perth County; Stratford City; Temiskaming District; Waterloo County;
Berlin City (now Kitchener)
- 1916 Brant County
- 1917 St. Marys Town
- 1919 Galt City
- 1921 Windsor City; Ford Village; Walkerton Town
- 1922 Haldimand County; Huron County; Hamilton City
- 1923 Lincoln County; Middlesex County; Nipissing District, Stormont, Dundas &
Glengarry Combined Counties
- 1925 Port Colborne Town
- 1928 Cochrane District
- 1929 Oshawa City; Dundas Town
- 1931 York County
- 1936 Wentworth County
- 1941 Norfolk County
- 1943 Dufferin County; Prince Edward & Russell Combined Counties
- 1944 Kenora District; Northumberland & Durham Combined Counties; Oxford
County; Sudbury District
- 1945 Thunder Bay District; Welland County; Sarnia City
- 1946 Halton County; Peterborough County; Wellington County
- 1947 Prince Edward County
- 1948 Essex County
- 1949 Hastings County; Ontario County; Simcoe County
- 1950 Kingston City; Renfrew County
- 1951 Muskoka District
- 1952 Peel County
- 1954 Elgin County; Parry Sound District
- 1955 Carleton County; Lambton County; Manitoulin District
- 1956 Algoma District; Lennox & Addington Combined Counties, Rainy River
District
- 1957 Bruce County; Leeds & Grenville Combined Counties
- 1958 Frontenac County
- 1962 Victoria & Haliburton Combined Counties
- 1963 Lanark County

Proclamation, Juvenile Court, Ottawa
Canada Gazette, July 24, 1909

CANADA

EDWARD THE SEVENTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, KING, Defender of the Faith, Emperor of India
 To all to whom these presents shall come, or whom the same may in anywise concern — GREETING:

A PROCLAMATION

A. POWER, Acting Deputy Minister of Justice, Canada	WHEREAS in and by section 35 of an Act of the Parliament of
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Canada passed in the session thereof held in the seventh and eighth years of Our Reign, chaptered 40 and intituled "An Act respecting Juvenile Delinquents" it is amongst other things in effect enacted that the said Act may be put into force in any City, by proclamation, notwithstanding that the Provincial legislature has not passed an Act such as referred to in section 34 of the said Act, if Our Governor in Council is satisfied that proper facilities for the due carrying out of the provisions of the said Act have been provided in such City by the Municipal Council thereof or otherwise;

AND WHEREAS the legislature of the Province of Ontario has not passed an Act as referred to in section 34, but Our Governor in Council is satisfied that proper facilities for the due carrying out of the provisions of the said Act in the City of Ottawa, in the said Province, have been provided by the Municipal Council of the said City or otherwise;

AND WHEREAS in and by section 36 of the said Act it is amongst other things in effect enacted that the said Act shall go into force only when and as proclamations declaring it in force in any Province, City, Town or other portion of a Province are issued and published

NOW KNOW YE that by and with the advice of Our Privy Council for Canada we do hereby proclaim and declare that the said Act shall come into force in the said City of Ottawa, upon from and after the twenty-fourth day of July in the year of Our Lord one thousand nine hundred and nine, the day of the publication of this Our Proclamation in Our Canada Gazette.

Of all which Our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. WITNESS, Our Right Trusty and Well-Beloved Councillor, The Knight Commander of our Most Distinguished Order of Saint Michael and Saint George, Chief Justice of Canada, and Administrator of the Government of Our Dominion of Canada.

At Our Government House, in Our City of OTTAWA, this SEVENTEENTH day of July, in the year of our Lord one thousand nine hundred and nine, and in the ninth year of Our Reign.

By Command,

THOMAS MULVEY

Under-Secretary of State of Canada.

ONTARIO PROVINCIAL PROBATION SERVICES

ANNUAL REPORT

	Provincial Probation Services	Municipal Probation Services Estimated*
Jan. 1st, 1965 to Dec. 31st, 1965		
1. Total number under probation supervision in 1965	16,016	2,712
2. Total number placed on probation during 1965	8,391	1,290
Breakdown		
3. Total number of adults under probation supervision in 1965	11,631	141
4. Total number of adults placed on probation during 1965	6,477	70
5. Total number of children under probation supervision in 1965	4,385	2,571
6. Total number of children placed on probation during 1965	2,608	1,220
7. Total number of cases counselled by Probation Officers which did not subsequently have to go to trial	10,262	7,712
Note: In counselling these cases, the officers had the following interviews	22,707	21,761
8. Total number of "reporting" visits by probationers to Probation Officers for supervision	102,417	16,768
9. (a) Total number of visits by Officers to probationers' homes	25,770	4,202
(b) Total number of visits by Officers with collateral persons	28,041	4,562
10. Total number of Pre-Sentence Reports and Social Histories prepared by Probation Officers	8,937	1,619
Note: 1,218 of these reports were forwarded in triplicate to the Department of Reform Institutions whenever a person, on whom a report had been prepared, was committed to prison, rather than being placed on probation; in the same manner 254 such reports were forwarded to Kingston and other Penitentiaries.		
Pre-Parole Release Reports prepared for the National Parole Board	422	Not applicable

11. Total number of persons supervised on license for the Department of Justice, Ottawa, during 1965	457	Not applicable
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MONIES

12. The total amount of Restitution collected from probationers following criminal convictions (audited)	\$71,293.33	\$7,647.47
13. The total amount of support money collected for deserted wives and children (audited)	\$ 5,744,899.13	
14. The total amount of earnings of the 11,772 adult probationers for 1965 (estimated) at \$3,000 per year per probationer	\$35,316,000.00	
15. Total number of Probation Officers	195	49

* **Note:** Actual comparative figures from the Juvenile Family Courts employing Municipal Officers are not available in all cases.

DWC/GMcF/ARS/vm

D. W. COUGHLAN
Director of Probation Services

**DEPARTMENT OF THE ATTORNEY GENERAL
ONTARIO PROVINCIAL PROBATION SERVICES
COMPARATIVE STATISTICAL REPORT**

**Report on the work of
PROVINCIAL PROBATION OFFICERS**

For the Years 1964 - 1965

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Introduction

- Table 1. Counties and Districts of Ontario with Populations, Number of Provincial Probation Officers and Number of Persons under Provincial Probation Officer's Supervision.
- Table 2. Other Statutory Supervision Carried Out by Provincial Probation Officers.
- Table 3. Investigations and Written Reports Submitted by Provincial Probation Officers.
- Table 4. Family Matrimonial Counselling and Other Preventive Counselling Undertaken by Provincial Probation Officers.
- Table 5. Average Workload per Month of Provincial Probation Officers in Counties or Districts Calculated to the Nearest Whole Figure.
- Table 6. Violations Reported — Charges Laid Upon Instructions of Court — and Probation Supervision Completions.
- Table 7. Interviews and Other Comparative Data of Work of Provincial Probation Officers.

Prepared by: G. G. McFarlane
A. R. Stannah

This comparative statistical report is designed to reveal the range of duties and responsibilities and the total workload of Provincial employed Probation Officers; to compare the workloads of Officers in specific Counties or Districts in relation to the population, the number of caseworking Probation Officers, and the demands upon their services during the years 1964 and 1965.

The number of Provincial Probation Officers and the related figures reported in this study does not involve Supervising Probation Officers nor Senior Officers who are totally engaged in an administrative or supervising capacity.

The monthly workload figure per Officer is based on the average of the active month-end caseload and monthly average of investigations per Officer as submitted by area Supervisors at the end of each quarter. The National Council of Crime and Delinquency standard of 1 unit per case and 5 units per investigation was applied to this average month-end figure to arrive at the average month-end workload per county or district. (Table 5.)

The report highlights the extensive use of Probation Services for investigation reports, family counselling, and preventive counselling, or referrals in relation to a variety of unofficial contacts as well as for statutory supervision of persons designated to report to a Probation Officer.

In any specific County or District, which during the year 1965 shows an overload per Probation Officer, the judiciary and other local authorities will be aware of any additional appointments either made or proposed for additional staff to take care of such overloads during 1966.

While the percentage of "completions without sentence" in Table 6 serves as one indicator of the value of probation supervision, it should not be construed as a final figure reflecting the total percentage of "successful rehabilitations". It undoubtedly includes a large percentage who successfully rehabilitated with the aid of probation supervision. However, it includes a percentage who may recidivate within a day, months, or years following completion. It also includes a percentage who were reported for violation, but, who nevertheless were allowed to conclude their probation without sentence. In 1965, 2,224 probationers were reported for violation of probation, out of 16,061 under supervision. We are unable to estimate the percentage of those probationers reported, who were either sentenced in relation to the violation or who were permitted to complete their original probation order, notwithstanding the violation report.

D. W. Coughlan,
Director of Probation Services.

APPENDIX

One significant study conducted by the Cambridge Department of Criminal Science¹ in 1958 on the success and failure of probation contains an indication of the percentage of successes during the period in which the order was in force and after a three-year follow-up period. The study groups consisted of 4,316 adult probationers and 5,020 juveniles (persons aged 8 and under 17 in Britain).

Total No. in Cambridge Study Groups (1948-53) Adults (4,316) Juveniles (5,020)

Successful completion with no appearance in Court while the order was in force and no re-conviction during the follow-up period:	70.0%	57.9%
Successful completion of probation in spite of appearance in Court while the order was in force and no re-conviction during the follow-up period:	<u>3.8%</u>	<u>4.5%</u>
General rate of success:	<u>73.8%</u>	<u>62.4%</u>

A preliminary three-year follow-up survey has just been completed by the Ontario Probation Officers' Association on The Results of Adult Probation.² Selection and follow-up of cases from nine different rural and urban areas in Ontario revealed the following:

"There were 422 men and 44 women for a total of 466 probationers involved in the survey. Of these, 68.3% were successful. Women proved to be the more successful with 90.9% as compared to 65.9% of the men. The success rates by area ranged from 58% to 85%. Seven of the areas were bunched fairly close to the average, varying from 63% to 75%. There was one area at the extreme low of 58% and one area at the extreme high of 85%. It is also interesting to note that the more concentrated the population, the lower was the success rate: the large urban centre with 63.3%, the medium centre with 67%, the small centre with 71.5% and the North with 75.5%.

Research into Caseload Standards:

1. **"Standards and Guides for Adult Probation"** — A report of The Professional Council of the **National Council on Crime and Delinquency**³ in the United States (1963) supplies the following workload formula by way of establishing the maximum workload which a Probation Officer can effectively carry. This formula provides for one unit of work as representing the amount of time spent in the supervision of one case for one month, and five units as representing the amount of time spent on a pre-sentence investigation. In accordance with their criteria the maximum workload would be 50 units.

2. **The Report of the Departmental Committee on the Probation Service in England and Scotland**⁴ presented to Parliament in 1962, while suggesting a formula would be difficult to apply as there were many variables which could make the formula inapplicable, did suggest that if a formula was applied, 50 cases would be considered as a standard caseload.

3. The Probation Officers' Association (Ontario) in conjunction with Ontario Probation Service conducted a Qualitative and Quantitative Survey⁵ in 1963 and evolved a figure of 60 units as the maximum which could be effectively carried. (1 case = 1 unit, 1 P.S.R. = 4 units.) A number of other variables are considered in the formula.

Application of Workload Formulae

The criterion which we have applied for workload reference purposes in our **Comparative Statistical Report** for the years 1964-1965 is (1 case = 1 unit and 1 report = 5 units, with "50 units" as the maximum effective workload per officer). Application of this formula of the National Council on Crime and Delinquency apart from other considerations and weightings reveals very excessive workloads in a number of counties and districts. Much of the excess is undoubtedly due to a steady increase in demand on the part of most courts for pre-sentence reports and social histories.

In the absence of proper weightings, we recognize that such workload figures must be qualified by the Area Supervisors' own assessments and evaluate reports. Such reports are determining factors both in the preparation of annual estimates and in deciding upon the allocation of existing staff.

Figures used in the Ontario Probation Services "Five Year Study on the Performance of Probation Officers"⁶ from the Home Office Research Unit for Great Britain for the year 1959 indicate that British Officers were involved for 8% of their time in preparing social enquiries whilst the time in which Probation Officers in Ontario were occupied in this duty increased from 12.1% in 1958 to 23% in 1962.

The position which we would have to take in regard to the problem of assessing Probation Officers' work by applying such formulae would be comparable with that of the British Home Office, **Departmental Committee on the Probation Service**, 1962. While they have regarded 50 units as the standard "caseload", it must be noted that their formula would make no allowance for a significantly greater demand on the part of courts in this Province for pre-sentence reports and social histories. Home Office: Departmental Committee on the Probation Service, 1962, On Assessing Probation Officers' Work by Formulae

"There is evident difficulty in assessing probation officers' work by applying formulae. The needs of persons under supervision make widely varying demands upon officers; their non-supervisory work also varies from case to case and cannot, in any event, be expressed in terms which enable it to be added by simple arithmetic to the number of cases under supervision; and the work which an officer can reasonably be expected to undertake will depend on his methods and capacities. A good officer may be able to carry more work than a mediocre one: or it may be desirable to give him fewer cases because he is capable of work of greater depth. We agree with the view expressed to us that there is need for research into these matters, and we are inclined to think that, whatever caseload standards may be evolved, they would be better applied to groups of officers than to individuals because, within a normal group, variations in the capacities, methods, and rates

of work of individuals may tend to cancel each other out. Our general conclusion, however, is that the need for a caseload index has been reduced. Principal probation officers have, over the years, acquired experience of the total demands upon their staffs, and their assessments of staffing needs should, if the relationship between the probation committee and its principal officer is the proper one of trust and confidence, count for more than mere figures. The probation committee's concern should be to know how its principal officer assesses the "workload" rather than the "caseload" of each officer: the weight, that is to say, not only of cases under supervision but of all the probation officer's duties. The principal, in consultation with senior probation officers as necessary, should know the capacities of the officers, the hours they work and the precise nature of their cases, and should be able to judge whether individual officers are over-worked or under-employed. We would not suggest that consideration of standard "caseloads" should be wholly abandoned since they have a real, although limited, value as a measure of certain types of work; but we recommend that probation committees should treat them as guides to be considered in the light of their principal and senior probation officers' empirical appraisals. A similar approach will, we have no doubt, be employed by inspectors in advising the Home Departments upon the establishments that committees propose. In so far as reference to caseloads may still be helpful, we think that the standard for a man officer should be fifty."

APPENDIX REFERENCES

- ¹ *Cambridge Department of Criminal Science*: Great Britain. A report of the Cambridge Department of Criminal Science, London, Macmillan & Co. Ltd., New York, St. Martin's Press, 1958, p. 3.
- ² Ontario Probation Officers Association, "*Examination of the Results of Adult Probation*" January 1966, p. 3. (Unpublished: quoted with permission.)
- ³ *National Council on Crime and Delinquency: U.S.A.* Professional Council, Committee on Standards for Adult Probation, "*Standards and Guides for Adult Probation*". National Council on Crime and Delinquency, 44 East 23 St., New York 10, N.Y., 1962, p. 57.
- ⁴ Home Office and Scottish Home Department, "*Report of the Departmental Committee on the Probation Service*", London, Her Majesty's Stationery Office, March, 1962, p. 108.
- ⁵ Probation Officers Association of Ontario, "*Qualitative and Quantitative Study*". Marks, V. M. *Report of a Committee of the Probation Officers Association (Ontario) on Qualitative and Quantitative Aspects of Probation Work in Ontario*, The Canadian Journal of Corrections, Canadian Corrections Association, 55 Parkdale Ave., Ottawa 3, Ont. Vol. 6, No. 3, July, 1964, p. 346. (Readers are referred to this reference for further information regarding the Probation Officers Association (Ontario) workload formula since full details regarding the formula and its application are not supplied.)
- ⁶ McFarlane, G. "Five Year Study on the Performance of Probation Officers According to Education and Orientation", Canadian Journal of Corrections, 55 Parkdale Ave., Ottawa, Ont., Vol. 6, No. 3, July, 1964, p. 359.

TABLE 1—Showing Counties and Districts of Ontario with Populations; Number of Provincial Probation Officers and Number of Persons under Provincial Probation Officers' Supervision during the Years 1964 and 1965

	Population 1964	No. of Provincial Probation Officers 1964 1965	Persons Under Probation Supervision as of Jan. 1 1964 1965	Persons Placed Under Probation Supervision during 1964 1965	Persons Under Probation Supervision as of Dec. 31 1964 1965	Average Month-end Caseload per Officer during Year 1964 1965
ALGOMA.....	98,933	3 4	144 149	172 205	149 174	53 40
BRANT.....	81,653	2 2	112 124	105 114	124 100	56 61
BRUCE.....	41,880	1 1	62 48	57 52	48 49	52 44
CARLETON.....	383,924	7 7	358 319	369 373	319 308	51 44
COCHRANE.....	79,548	3 3	185 183	192 176	183 166	60 59
DUFFERIN.....	16,626	....	....	....	....	....
ELGIN.....	59,726	2 2	75 75	56 70	75 79	38 42
ESSEX.....	261,995	7 7	220 195	190 166	195 202	30 30
FRONTENAC.....	81,143	3 3	114 123	131 182	123 143	42 50
GREY.....	62,715	2 2	92 108	130 147	108 97	48 56
HALDIMAND.....	28,564	1 1	25 35	59 26	35 14	32 27
HALTON.....	134,700	3 4	125 139	144 119	139 124	46 38
HASTINGS.....	88,265	2 2	111 121	98 122	121 119	54 63
HURON.....	50,713	1 1	50 50	47 37	50 43	61 41
KENORA.....	32,399	2 3	130 127	155 185	127 134	60 41
KENT.....	91,745	4 4	180 177	144 116	177 140	44 43
LAMBTON.....	100,074	4 4	197 188	160 200	158 181	42 42
LANARK.....	38,621	1 1	43 35	51 51	35 34	37 35
LEEDS & GRENVILLE.....	70,049	1 1	50 48	35 88	48 75	40 76
LENNOX & ADDINGTON.....	24,090	1 1	43 26	18 20	26 40	32 37
LINCOLN.....	131,914	3 4	137 151	137 191	151 204	49 48
MANITOULIN.....	7,070	1P/T 1P/T	37 39	18 44	39 40	72 72

MIDDLESEX.....	226,855	5	7	244	257	227	262	257	258	53	37
MUSKOKA.....	24,764	1	1	38	30	30	26	30	17	31	22
NIPISSING.....	65,205	3	2	107	97	100	128	97	119	32	61
NORFOLK.....	51,010	2	2	87	83	117	64	83	61	42	30
NORTH. & DURHAM.....	83,800	1	1	57	81	89	63	81	65	76	70
ONTARIO.....	152,132	3	3	211	176	181	281	176	249	65	72
OXFORD.....	71,978	2	2	38	49	48	57	49	56	23	27
PARRY SOUND.....	25,428	1	1	52	62	84	84	62	52	55	55
PEEL.....	141,633	3	4	141	200	247	228	200	220	61	54
PERTH.....	58,619	1	1	38	43	33	42	43	57	42	52
PETERBOROUGH.....	76,728	3	4	312	313	251	240	313	290	105	89
PRESCOTT & RUSSELL.....	48,904	1	1	46	46	47	47	46	38	48	38
PRINCE EDWARD.....	20,392					Included in Hastings					
RAINY RIVER.....	22,232	1	1	56	39	63	92	39	54	42	52
RENFREW.....	77,752	2	2	105	100	120	91	100	71	52	35
SIMCOE.....	133,594	6	6	197	138	207	208	138	178	28	28
STOR., DUN. & GLEN.....	92,817	3	2	114	136	143	109	136	110	42	45
SUDBURY.....	146,682	5½	5½	280	260	245	264	260	308	59	54
TEMISKAMING.....	43,734	3	3	135	128	120	146	128	115	41	41
THUNDER BAY.....	127,978	4	4	213	179	199	197	179	180	49	44
VICTORIA & HALIBURTON.....	37,359	1	1	52	88	123	57	88	42	87	45
WATERLOO.....	194,034	4	4	224	224	304	284	224	241	54	54
WELLAND.....	168,127	4	5	211	183	230	261	183	217	50	47
WELLINGTON.....	87,642	3	3	122	133	164	143	133	114	43	41
WENTWORTH.....	355,839	12	12	408	421	500	457	421	412	35	36
YORK.....	125,036	2	2	66	77	101	107	77	78	38	50
METRO TORONTO.....	1,717,875	27	30	1596	1652	1615	1769	1652	1743	59	58

Total persons under supervision during year: 1964—15,671

1965—16,016

TABLE 2—Showing Other Statutory Supervision Carried Out by Provincial Probation Officers during Years 1964–1965

	Deserted Wives and Children's Maintenance Act and Child Welfare Act 1964 1965		Provincial Parole and Training School Aftercare 1964 1965		National Parole 1964 1965		Average per Officer per Year (to the nearest whole figure) 1964 1965		Average per Month-end Caseload per Officer Based on Quarterly Returns (to the nearest whole figure) 1964 1965	
ALGOMA.....	25	14	2	3	5	12	10	7	2	4
BRANT.....	.....	.....	.....	.....	3	3	3	2	1	1
BRUCE.....	.....	.....	.....	.....	.....	2	.....	2	.....	1
COCHRANE.....	2	8	.....	.....	6	14	3	7	1	3
CARLETON.....	24	8	.....	.....	8	18	5	4	1	1
DUFFERIN.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
ELGIN.....	.....	.....	.....	.....	1	2	1	1	1	1
ESSEX.....	.....	.....	5	.....	19	31	3	5	2	1
FRONTENAC.....	.....	1	1	.....	7	7	3	3	2	2
GREY.....	1	.....	.....	.....	1	3	1	2	1	1
HALDIMAND.....	.....	.....	.....	.....	1	1	1	1	1	1
HALTON.....	.....	.....	.....	.....	3	6	1	2	1	1
HASTINGS.....	14	.....	1	.....	10	11	12	6	3	2
HURON.....	.....	.....	1	1	.....	1	1	2	.....	.....
KENORA.....	3	4	5	9	7	9	8	8	3	3
KENT.....	1	1	.....	.....	8	14	2	4	.....	2
LAMTON.....	2	2	3	.....	1	4	2	2	.....	1
LANARK.....	17	.....	.....	.....	2	3	19	3	5	3
LEEDS & GRENVILLE.....	.....	.....	.....	.....	6	4	6	4	3	3
LENNOX & ADDINGTON.....	.....	.....	.....	.....	.....	2	.....	2	.....	1

LINCOLN.....	...	1	...	6	13	3	3	1	2
MANITOULIN.....	...	...	...	1	1	2	1	...	...
MIDDLESEX.....	24	...	...	8	8	7	5	3	2
MUSKOKA.....	4	...	...	5	3	9	3	3	1
NIPISSING.....	...	...	...	4	2	1	1	...	1
NORFOLK.....	1	...	...	6	5	4	3	3	1
NORTH. & DURHAM.....	...	...	...	2	5	2	5	2	3
ONTARIO.....	...	...	...	19	15	6	5	1	2
OXFORD.....	...	...	...	7	5	4	3	3	2
PARRY SOUND.....	7	...	...	1	...	8	7	2	3
PEEL.....	5	...	...	6	15	4	6	2	2
PERTH.....	1	...	...	...	...	1	...	...	...
PETERBOROUGH.....	1	...	1	10	5	4	2	2	1
PRESCOTT & RUSSELL.....	...	...	...	1	2	1	...	...	1
PRINCE EDWARD.....	...	...	...	...	...	...	...	...	...
RAINY RIVER.....	...	...	...	...	...	...	...	...	...
RENFREW.....	1	...	...	...	...	...	...	...	3
SIMCOE.....	2	...	...	5	9	5	5	1	2
STOR., DUN. & GLEN.....	1	...	...	14	14	3	3	1	1
SUDBURY.....	1	...	...	11	14	4	5	1	2
TEMISKAMING.....	20	...	...	18	12	4	3	...	1
THUNDER BAY.....	4	...	...	9	8	10	6	1	2
VICTORIA & HALIBURTON.....	2	...	1	19	29	6	8	1	4
WATERLOO.....	12	...	...	3	2	5	5	1	3
WELLAND.....	3	...	4	6	13	5	6	2	1
WELLINGTON.....	...	...	...	9	14	4	3	2	2
WENTWORTH.....	13	...	...	6	7	2	2	1	1
YORK.....	...	...	...	13	20	2	3	1	3
METRO TORONTO.....	1	...	1	60	8	3	4	1	2

TABLE 3—Showing Investigations and Written Reports Submitted by Provincial Probation Officers during Years 1964 and 1965

	Number of Investigations and Reports during Year		Average Investigation Reports per Officer during Year		Average Case Point Value of Reports per Officer per month (1 Report = 5 Case Points) (to nearest round figure)	
	1964	1965	1964	1965	1964	1965
ALGOMA.....	205	151	68	42	28	17
BRANT.....	135	127	68	64	28	26
BRUCE.....	13	24	13	24	5	10
COCHRANE.....	225	319	75	106	31	44
CARLETON.....	433	424	66	61	28	25
DUFFERIN.....	.....	.....	.....	.....	.....	.....
ELGIN.....	90	107	45	54	19	22
ESSEX.....	507	403	72	62	30	26
FRONTENAC.....	63	62	21	20	9	9
GREY.....	164	204	82	102	34	43
HALDIMAND.....	57	39	57	39	24	16
HALTON.....	440	401	147	123	61	51
HASTINGS.....	94	77	47	39	20	16
HURON.....	58	35	58	35	24	15
KENORA.....	42	111	21	42	9	18
KENT.....	189	161	47	40	20	17
LAMBTON.....	255	275	64	69	27	29
LANARK.....	40	29	40	29	17	12
LEEDS & GRENVILLE.....	23	54	23	39	10	16
LENNOX & ADDINGTON.....	25	40	25	40	10	17
LINCOLN.....	316	177	105	47	24	20
MANITOULIN.....	5	52	10	52	4	43

MIDDLESEX.....	224	266	45	36	19	15
MUSKOKA.....	50	39	50	39	21	16
NIPISSING.....	208	264	69	151	29	62
NORFOLK.....	103	154	52	57	21	24
NORTHUMBERLAND & DURHAM.....	113	59	113	59	47	25
ONTARIO.....	176	142	59	47	24	20
OXFORD.....	208	315	104	158	43	66
PARRY SOUND.....	65	67	65	67	27	28
PEEL.....	162	203	54	54	23	23
PERTH.....	34	98	34	98	14	41
PETERBOROUGH.....	277	246	92	73	38	30
PRESCOTT & RUSSELL.....	54	50	54	50	23	21
PRINCE EDWARD.....	.....	.....	.....	.....	.....	.....
RAINY RIVER.....	20	44	20	44	8	18
RENFREW.....	47	69	24	35	10	14
SIMCOE.....	272	305	45	51	19	21
STOR., DUN. & GLEN.....	194	144	65	52	27	22
SUDBURY.....	330	444	60	85	25	35
TEMISKAMING.....	277	290	92	97	38	40
THUNDER BAY.....	118	134	30	34	12	14
VICTORIA & HALIBURTON.....	43	31	43	31	18	13
WATERLOO.....	304	322	76	83	32	35
WELLAND.....	173	462	43	106	18	44
WELLINGTON.....	138	117	46	39	19	16
WENTWORTH.....	1036	746	85	64	36	26
YORK.....	175	148	87	74	36	31
METRO TORONTO.....	1017	1041	38	35	16	15

TABLE 4—Showing Family Matrimonial Counselling and Other Preventive Counselling Undertaken by Provincial Probation Officers during Years 1964-1965

	Family Counselling Cases Dealt with during Year		Preventive Counselling Occurrences		Average Month-end Counselling Cases per Officer per Quarter (to nearest round figure)	
	1964	1965	1964	1965	1964	1965
ALGOMA.....	67	24	111	143	6	4
BRANT.....	2	....	15	5	1	....
BRUCE.....	26	22	7	15	7	6
COCHRANE.....	10	5	155	231	5	8
CARLETON.....	34	20	....	....	1	....
DUFFERIN.....	....	....	....	....	....	....
ELGIN.....	136	88	46	66	29	25
ESSEX.....	232	357	1743	818	33	30
FRONTENAC.....	83	69	168	174	13	10
GREY.....	53	31	24	13	7	7
HALDIMAND.....	14	15	53	31	5	4
HALTON.....	24	33	65	66	5	4
HASTINGS.....	67	50	255	201	19	14
HURON.....	43	35	69	34	14	7
KENORA.....	6	22	6	119	2	6
KENT.....	144	189	24	17	15	16
LAMBTON.....	138	130	154	188	13	13
LANARK.....	21	16	1	4	5	4
LEEDS & GRENVILLE.....	1	....	35	23	3	2
LENNOX & ADDINGTON.....	58	68	14	20	23	14
LINCOLN.....	49	46	117	68	8	3
MANITOULIN.....	....	....	....	4	....	1
MIDDLESEX.....	400	526	316	215	28	19

MUSKOKA.....	96	97	33	66	24	36
NIPISSING.....	112	90	186	75	11	9
NORFOLK.....	15	19	6	17	2	4
NORTHUMBERLAND & DURHAM.....	18	12	...	...	2	3
ONTARIO.....	27	...	4	5	...	...
OXFORD.....	21	17	199	455	11	21
PARRY SOUND.....	80	45	25	33	21	19
PEEL.....	1	1	20	26	1	1
PERTH.....	73	72	64	51	28	20
PETERBOROUGH.....	3	3	41	80	1	2
PRESCOTT & RUSSELL.....	6	7	...	...	3	...
PRINCE EDWARD.....	...	...	...	...	...	...
RAINY RIVER.....	10	5	2	3	3	1
RENFREW.....	8	7	89	54	5	3
SIMCOE.....	665	473	353	351	30	23
STOR., DUN. & GLENGARRY.....	176	143	142	109	18	13
SUDBURY.....	459	390	153	136	11	13
TEMISKAMING.....	80	73	65	208	12	11
THUNDER BAY.....	175	126	149	87	7	10
VICTORIA & HALIBURTON.....	4	5	2	5	1	3
WATERLOO.....	36	26	142	69	6	2
WELLAND.....	374	389	154	253	16	12
WELLINGTON.....	239	214	226	177	25	24
WENTWORTH.....	240	575	676	339	9	15
YORK.....	101	154	86	79	31	26
METRO TORONTO.....	...	1	246	439	1	1

TABLE 5—Average Work Load per Month of Provincial Probation Officers in Counties or Districts during Years 1964 and 1965
(Calculated to the nearest whole figure)

	STATUTORY SUPERVISION		INVESTIGATIONS	NON-STATUTORY		TOTAL		
	C. Code R.S.O.'s J.D. Act 1964 1965	D.W.C.M. Act C.W. Act Nat. Parole 1964 1965		Family Counselling— Preventive Occurrence Counselling 1964 1965	Average Month-end Workload per Officer 1964 1965			
ALGOMA.....	53	40	28	17	6	4	89	65
BRANT.....	56	61	28	26	1	....	86	88
BRUCE.....	52	44	5	10	7	6	64	61
COCHRANE.....	60	59	31	44	5	8	97	114
CARLETON.....	51	44	28	25	1	....	81	70
DUFFERIN.....	....	....	....	....	....	....	....	....
ELGIN.....	38	42	19	22	29	25	87	100
ESSEX.....	30	30	30	26	33	30	95	87
FRONTENAC.....	42	50	9	9	13	10	67	71
GREY.....	48	56	34	43	7	7	90	107
HALDIMAND.....	32	27	24	16	5	4	62	48
HALTON.....	46	38	61	51	5	4	113	94
HASTINGS.....	54	63	20	16	19	14	96	95
HURON.....	61	41	24	15	14	7	99	63
KENORA.....	60	41	9	18	2	6	74	68
KENT.....	44	43	20	17	15	16	79	78
LAMBTON.....	43	42	27	29	13	13	83	85
LANARK.....	37	35	17	12	5	4	64	54
LEEDS & GRENVILLE.....	40	76	10	16	3	2	56	97
LENNOX & ADDINGTON.....	32	40	10	17	23	14	65	72
LINCOLN.....	49	48	24	20	8	3	82	73

	72	72	....	....	4	43	....	....	1	76	116
MANITOULIN.....	72	37	3	2	19	15	28	19	103	73	
MIDDLESEX.....	53	22	3	1	21	16	24	36	79	75	
MUSKOKA.....	31	61	....	....	29	62	11	9	72	133	
NIPISSING.....	32	30	3	1	21	24	2	4	68	59	
NORFOLK.....	42	70	2	3	47	25	2	3	127	101	
NORTH. & DURHAM.....	76	72	1	2	24	20	....	....	90	94	
ONTARIO.....	65	27	3	2	43	66	11	21	80	116	
OXFORD.....	23	55	2	3	27	28	21	19	105	105	
PARRY SOUND.....	55	54	2	2	23	23	1	1	87	80	
PEEL.....	61	52	....	....	14	41	28	20	84	113	
PERTH.....	42	89	2	1	38	30	1	2	146	122	
PETERBOROUGH.....	105	38	....	....	23	21	3	....	74	60	
PRESCOTT & RUSSELL.....	48	....	....	....	....	....	....	....	....	....
PRINCE EDWARD.....	....	52	1	3	8	18	3	1	54	74	
RAINY RIVER.....	42	35	1	2	10	14	5	3	68	54	
RENFREW.....	52	28	1	1	19	21	30	23	78	73	
SIMCOE.....	28	45	1	2	27	22	18	13	88	82	
STOR., DUN. & GLEN.....	42	54	....	....	25	35	11	13	95	103	
SUDBURY.....	59	41	1	2	38	40	12	11	92	94	
TEMISKAMING.....	41	44	1	4	12	14	7	10	69	72	
THUNDER BAY.....	49	45	1	3	18	13	1	3	107	64	
VICTORIA & HALIBURTON.....	87	54	2	1	32	35	6	2	94	92	
WATERLOO.....	54	47	2	2	18	44	16	12	86	105	
WELLAND.....	50	41	1	1	19	16	25	24	88	82	
WELLINGTON.....	43	36	1	1	36	26	9	15	81	78	
WENTWORTH.....	35	50	2	3	36	31	31	26	107	110	
YORK.....	38	58	1	2	16	15	1	1	77	76	
METRO TORONTO.....	59	....	....	....	....	....	....	....	....	....

(1 Case = 1 Unit under any of the
above Statutes and Parole)(Reports in Units
1 Report = 5 Units)(1 Fam. Case =
1 Unit)(Combines Stat.
& Non-Stat. Cases
- 1 Unit plus
Reports = 5 Units)

**TABLE 6—Violation Reported—Charges Laid upon Instructions of Court—
and Probation Supervision Completions during Years 1964 and 1965**

	VIOLATIONS		PROBATION COMPLETIONS				Warrant Issued or Missing 1964 1965
	Reported 1964 1965	Charged 1964 1965	Without Sentence 1964 1965		With Sentence 1964 1965		
			1964	1965	1964	1965	
ALGOMA.....	28	51	139	151	19	26	2
BRANT.....	6	15	84	120	21	13	1
BRUCE.....	13	7	54	41	3	3	.....
COCHRANE.....	15	21	139	163	28	35	.....
CARLETON.....	163	128	359	339	55	44	8
DUFFERIN.....	....	....	....	....	....	....	.....
ELGIN.....	15	13	42	50	9	6	.....
ESSEX.....	58	59	189	150	41	40	1
FRONTENAC.....	20	34	105	150	18	11	1
GREY.....	17	32	79	99	9	18	1
HALDIMAND.....	22	18	26	44	8	6	1
HALTON.....	26	30	114	111	16	25	2
HASTINGS.....	19	23	86	83	10	5	1
HURON.....	4	7	48	34	2	3	.....
KENORA.....	18	33	139	148	18	25	.....
KENT.....	6	6	131	135	20	20	.....
LAMBTON.....	37	54	169	1322	18	35	.....
LANARK.....	29	4	44	44	8	42	3
LEEDS & GRENVILLE.....	2	9	36	53	....	3	2
LENOX & ADDINGTON.....	6	3	25	33	4	2	.....
LINCOLN.....	38	45	102	146	25	32	3
MANITOULIN.....	22	18	10	33	6	7	.....

MIDDLESEX.....	41	36	26	19	202	248	39	28	.....	2
MUSKOKA.....	22	10	4	7	39	29	3	4	.....	3
NIPISSING.....	2	24	2	12	98	87	10	13	.....	.....
NORFOLK.....	28	13	25	12	82	87	11	.....	.....	.....
NORTH. & DURHAM.....	24	5	14	1	47	62	4	5	1	4
ONTARIO.....	64	57	39	35	181	172	30	21	1	1
OXFORD.....	5	5	4	2	38	41	6	7	3	8
PARRY SOUND.....	16	23	10	18	55	64	9	6	8	5
PEEL.....	60	44	40	31	107	141	34	40	.....	.....
PERTH.....	29	12	9	5	27	36	14	4	.....	.....
PETERBOROUGH.....	49	44	21	10	214	223	20	30	.....	3
PRESCOTT & RUSSELL.....	7	1	4	1	36	46	9	2	1	.....
PRINCE EDWARD.....	....	....	....	....	71	67	11	4	.....	.....
RAINY RIVER.....	7	3	3	....	111	94	14	6	1	1
RENFREW.....	16	13	6	7	206	134	34	31	3	4
SIMCOE.....	74	61	22	35	97	120	23	14	.....	1
STOR., DUN. & GLEN.....	46	27	33	20	210	192	21	21	.....	.....
SUDBURY.....	49	51	17	8	103	147	21	15	1	11
TEMISKAMING.....	41	39	25	34	197	184	36	28	5	1
THUNDER BAY.....	29	36	12	19	59	80	6	5	.....	.....
VICTORIA & HALIBURTON.....	18	11	6	4	283	246	30	18	.....	.....
WATERLOO.....	85	49	57	25	214	239	29	49	.....	.....
WELLAND.....	62	108	30	69	106	128	30	30	.....	3
WELLINGTON.....	44	49	32	35	472	429	53	67	3	30
WENTWORTH.....	105	107	40	81	68	93	10	14	.....	3
YORK.....	19	15	17	14	1577	1560	252	204	43	65
METRO TORONTO.....	675	771	253	254	.....	.....	.....	.....	.....	.....
	2102	2224								

Total Completions Without Sentence: 1964—6931 1965—7208
 Percentage of Completions Without Sentence: 1964—85% 1965—85.9%

TABLE 7—Interviews and Other Comparative Data of Work of Provincial Probation Officers during Years 1964 and 1965

	Total Interviews at Homes—Collateral Visits and in Office		Court Attendances		Restitution Collected		Public Speaking Engagements		Custodial Conveyance to Training Schools	
	1964	1965	1964	1965	1964	1965	1964	1965	1964	1965
ALGOMA.....	4028	4678	229	270	\$	\$	5	....	23	31
BRANT.....	1368	1513	96	98	542.00	550.95	1	5	17	14
BRUCE.....	794	578	100	107	595.00	1,217.69	2	....	12	3
CARLETON.....	9293	7639	110	131	5,368.10	3,882.41	40	21	1	13
COCHRANE.....	3617	4966	160	165	2,932.87	2,810.67	....	4	28	32
DUFFERIN.....	....	....	....	....	....	....	....	....	....	....
ELGIN.....	1128	1442	153	153	100.00	34.00	10	16	4	6
ESSEX.....	6782	6764	469	500	3,014.65	2,822.07	22	11	18	27
FRONTENAC.....	3017	3029	148	178	....	....	7	1	10	7
GREY.....	1824	1975	317	353	....	....	16	7	12	22
HALDIMAND.....	646	569	71	76	....	....	4	4	8	15
HALTON.....	1529	1859	280	267	840.53	1,071.37	4	7	41	35
HASTINGS.....	1735	1813	124	145	1,355.04	3,849.92	12	13	15	26
HURON.....	1623	1527	81	87	....	....	7	6	5	6
KENORA.....	3340	3675	139	172	....	....	....	1	2	4
KENT.....	3270	4412	85	159	1,838.13	936.40	2	12	15	17
LAMBTON.....	4043	4058	408	400	868.38	653.91	10	14	39	25
LANARK.....	847	693	54	76	63.43	164.20	1	....	5	5
LEEDS & GRENVILLE.....	1248	2185	22	92	48.90	25.00	1	....	2	8
LENNOX & ADDINGTON.....	667	578	61	80	364.00	569.20	8	3	3	7
LINCOLN.....	3700	3927	197	261	....	....	13	16	47	37

MANITOULIN.....	642	717	39	47	158.91	94.90	...	1	7	7
MIDDLESEX.....	8501	8575	393	444	1,745.84	1,353.84	29	39	21	40
MUSKOKA.....	1763	1054	49	67	...	...	1	4	3	4
NIPISSING.....	2041	2469	260	204	276.45	928.15	...	8	7	11
NORFOLK.....	1709	1467	120	119	...	...	5	3	10	11
NORTH. & DURHAM.....	871	704	113	87	1,271.00	1,003.18	...	...	...	...
ONTARIO.....	3282	3633	116	115	967.51	2,888.33	1	...	...	3
OXFORD.....	1462	2697	172	181	90.24	556.50	15	20	20	19
PARRY SOUND.....	1480	1398	269	280	...	150.97	3	7	14	15
PEEL.....	2548	2822	205	207	761.05	1,604.55	13	5	17	30
PERTH.....	2126	1874	62	79	4,419.56	714.60	13	4	6	12
PETERBOROUGH.....	3704	4114	293	289	1,574.10	844.22	5	6	8	17
PRESCOTT & RUSSELL.....	811	621	68	72	1,320.00	65.00	...	...	...	...
PRINCE EDWARD.....	...	...	...	...	...	...	...	...	...	...
RAINY RIVER.....	872	883	19	31	...	...	...	4	1	...
RENFREW.....	2762	2642	133	117	623.36	1,117.84	...	2	16	7
SIMCOE.....	7819	8442	385	521	2,278.84	904.37	9	13	34	30
STOR., DUN. & GLEN.....	4003	4454	187	197	...	1,150.00	18	22	13	11
SUDBURY.....	5431	6629	288	450	2,399.57	3,229.89	8	13	13	30
TEMISKAMING.....	3354	4109	124	173	600.57	670.92	6	5	19	18
THUNDER BAY.....	5158	9229	431	331	1,213.06	678.53	7	6	8	15
VICTORIA & HALIBURTON.....	1099	845	53	41	597.10	199.65	...	1	2	3
WATERLOO.....	4431	3917	315	321	3,732.20	3,269.02	9	18	23	9
WELLAND.....	5277	4043	243	210	...	...	21	15	13	12
WELLINGTON.....	3518	3601	159	288	...	...	7	2	17	30
WENTWORTH.....	12081	12565	598	638	...	1,813.07	11	17	54	55
YORK.....	1650	1779	121	79	1,405.12	316.79	...	1	13	22
METRO TORONTO.....	26882	31780	465	483	28,855.53	29,097.22	16	17	...	...

Barrie, Ont.

March 22, 1965

FRED E. HUNTER

County Clerk

George MacFarlane, Esq.
Acting Assistant Director, Ontario
Provincial Probation Service,
7th floor, 481 University Ave.,
Toronto, Ont.

Dear Sir:

I received a letter from Mr. Frank Dingman, asking whether it would be in order for you to use certain reports made to Simcoe County Council in 1953 in your paper "Land-marks in the Growth of Probation".

I can see no reason why you should not use these reports — they are part of the Council minutes, and as such are available to anyone on request.

Yours very truly,
FRED HUNTER
County Clerk

FEH/DM

Suite 601,
2828 Bathurst Street,
Toronto 19, Ontario
March 4, 1966

Director,
Ontario Provincial Probation Services,
7th Floor,
481 University Avenue,
Toronto 2, Ontario
Att: Mr. G. G. McFarlane
Dear Sir:

*Re: Qualitative & Quantitative Committee
Adult Probation Survey*

"Thank you for your letter of February 24.

We are pleased that you consider the Survey to be a valuable and useful document, and we are happy to accord permission for you to quote from it in any way that will further the best interests of probation and the Branch . . ."

Yours very truly,

W. E. BUNTON

Supervising Probation Officer

WEB/LJ

c.c. MR. Q. NIGHSWANDER, S.P.O

Chairman,

Qualitative & Quantitative Committee

